

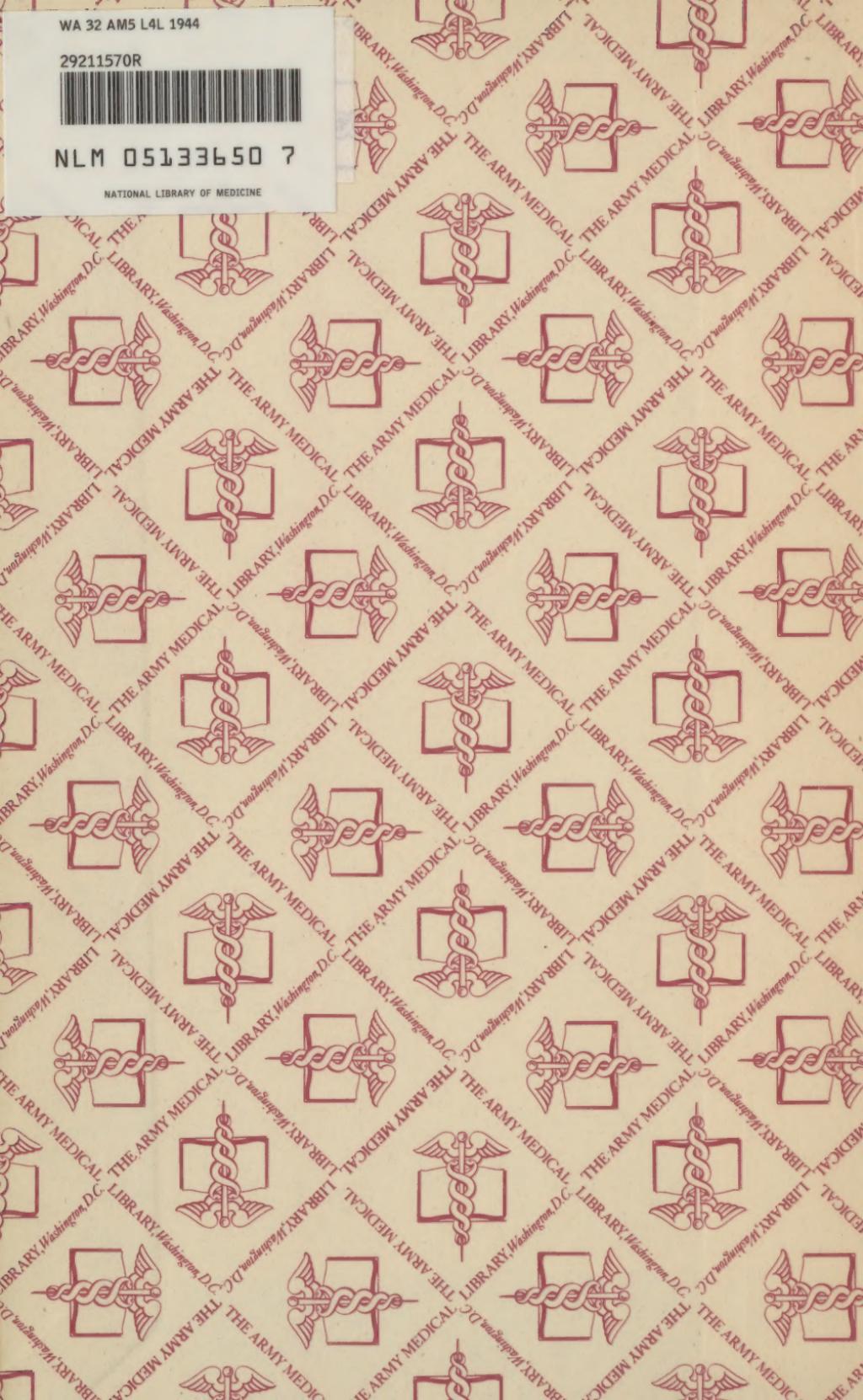


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Michigan Laws, statutes, etc.

REVISION OF 1943

STATE OF MICHIGAN

LAWS RELATING TO

PUBLIC HEALTH

COMPILED UNDER THE SUPERVISION OF

HERMAN H. DIGNAN
SECRETARY OF STATE

G. T. HARTMAN
DEPUTY SECRETARY OF STATE



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NOTE.—The numbers in parentheses (), are compiler's sections and are consecutive throughout the book. The notes used refer to the compiler's section. Section numbers of the compiled laws of 1929 are indicated by the section mark §. Annotated with supreme court decisions to and including the 306th Michigan Report. The character / is used in citing Michigan cases to avoid the repetition of Michigan.

LAWS RELATING TO PUBLIC HEALTH

CHAPTER I.—STATE HEALTH ADMINISTRATION

Organization of State Department of Health

An Act to protect the public health; to provide for the appointment of a state health commissioner, deputy state health commissioner and state advisory council of health; to prescribe the compensation, powers and duties thereof, the powers and duties of township, village and city health officers and health boards; and to abolish the state board of health.

[Act 146, P. A. 1919.]

The People of the State of Michigan enact:

(1) **§ 6446 Commissioner; appointment, term, qualifications.** Section 1. Immediately upon the taking effect hereof, the governor shall, with the advice and consent of the senate, appoint a state health commissioner, who shall assume office as soon as may be and shall continue therein to and including the thirtieth day of June, nineteen hundred twenty-three. The successors of said commissioner shall be appointed by the governor, with the advice and consent of the senate, for terms of four years, beginning on the first day of July, nineteen hundred twenty-three, and each four years thereafter: Provided, however, That any commissioner shall hold office until his successor is appointed and qualified. No person shall be appointed to the office of health commissioner unless he shall be a registered physician and shall have had at least five years' experience as a practicing physician, or in lieu of such experience shall have the degree of doctor of public health or its equivalent.

See § 16691 et seq., C. L. 1929, for criminal statutes dealing with offenses against public health.

The care of public health is a police power. Whatever differences of opinion may exist as to extent and boundaries of police power, and however difficult it may be to render a satisfactory definition of it, there seems to be no doubt that it does extend to protection of lives, health and property of the citizens and to preservation of good order and public morals.—*Davock v. Moore*, 105/120, 132.

(2) **§ 6447 Same; powers and duties, removal by governor, annual salary.** Sec. 2. The state health commissioner shall have general charge and supervision of the enforcement of the health laws of the state of Michigan and shall have the specific powers and duties hereinafter expressed. He shall be subject to removal by the governor for cause after due notice and hearing. He shall receive such annual salary as the legislature shall appropriate payable in the same manner as are the salaries of other state officials and shall devote his entire time to the performance of the duties of his office.

Am. 1933, Act 69.

(3) **§ 6448 Deputy state health commissioner; appointment, qualifications, duties, salary, oath and bond.** Sec. 3. The state health commissioner may appoint a deputy who shall be a registered physician or who

shall hold the degree of doctor of public health or its equivalent, for whose acts the commissioner shall be responsible and who shall perform such duties in connection with the enforcement of the health laws of the state as may be assigned to him by the commissioner. During the illness, absence or disability of the state health commissioner, the deputy may execute all the duties of said office. He shall receive an annual salary to be fixed by the commissioner to be paid in the same manner and at the same time as the salaries of other state officers are paid. The appointment of the deputy may be revoked at any time by the commissioner. He shall qualify by taking and filing the constitutional oath of office and by executing and filing with the commissioner such bond as the commissioner may require from him.

Am. Id.

(4) **§ 6449 State board of health; abolition, transfer of orders, powers and duties.** Sec. 4. The state health commissioner shall exercise all of the powers and perform all of the duties now vested by law in the state board of health or in any member, committee or officer thereof, including the secretary, subject to the provisions of this act. The state board of health is hereby abolished: Provided, however, That the rules, regulations and ordinances of said board, heretofore regularly adopted thereby and in force at the time of the passage of this act, shall be and remain in force and effect unless and until the same shall be altered, modified or repealed in accordance herewith. Such orders, regulations and ordinances shall be deemed to be, and shall have, the same force and effect as orders, regulations and ordinances made or adopted hereunder by said commissioner with the advice and consent of the advisory council of health.

(5) **§ 6450 State council of health; appointment, term, compensation and expenses, meetings, duties.** Sec. 5. Immediately upon the taking effect hereof, the governor shall appoint five persons, with the consent of the senate, who shall constitute the state council of health. In the first instance, the term of one member so appointed shall expire on the thirtieth day of June, nineteen hundred twenty-one; the term of two members shall expire on the thirtieth day of June, nineteen hundred twenty-three; and the term of two members shall expire on the thirtieth day of June, nineteen hundred twenty-five. The governor shall indicate in his commissions, the term for which each said member is appointed. The members of said council shall serve without compensation, but shall be entitled to their actual expenses incurred in performing the duties of their office. The council shall convene on the call of the state health commissioner, providing they shall have at least four regular meetings each year, to be held at such times and places as the council may by its resolution fix. Except as herein provided, the duties of said council shall be advisory only. Upon the expiration of the term of office of each member, the governor shall appoint a successor who shall assume office on the first day of July following the appointment and shall hold the same for a term of six years and until his successor is appointed and qualified.

Am. 1933, Act 69.

(6) **§ 6451 Same; oath; bond and oath of commissioner.** Sec. 6. The state health commissioner, and each member of the council appointed in accordance with the preceding section, shall, before entering on the per-

formance of the duties of his office, take the constitutional oath of office and file the same in the office of the secretary of state. The health commissioner shall also give a bond to the people of the state of Michigan in the sum of ten thousand dollars for the faithful performance of the duties of his office and for the proper accounting of such moneys as may come into his possession by virtue of his office.

(7) **§ 6452 Rules and regulations; publication.** Sec. 7. With the concurrence of the state council of health, any three of whom shall constitute a quorum, the state health commissioner may make and declare rules and regulations in accordance with the laws of the state for the proper safeguarding of the public health and for preventing the spread of diseases, or the existence of sources of contamination. Such rules and regulations shall be published in such manner as may be directed by the advisory council of health.

(8) **§ 6453 Administration by commissioner in municipalities of health laws and regulations; exception as to certain cities.** Sec. 8. Whenever in the opinion of the state health commissioner, conditions found by him to exist in any township, village or city of the state are such as to constitute a menace to the public health, either within or without the limits of such municipality, such commissioner may by himself, or by his deputy, or medical inspector, enter such township, village or city and take full charge of the administration of the health laws, rules, regulations and ordinances applicable thereto: Provided, however, That said commissioner shall not act hereunder in any city maintaining a health department with a full-time health office, except with the consent of the advisory council of health.

(9) **§ 6454 Epidemic; order regulating public meetings.** Sec. 9. In case of an epidemic of any infectious or dangerous communicable disease within this state or any community thereof, the state health commissioner may, if he deem it necessary to protect the public health, forbid the holding of public meetings of any nature whatsoever except church services which may be restricted as to number in attendance at one time, in said community, or may limit the right to hold such meetings in his discretion. Such action shall not be taken, however, without the consent and approval of the advisory council of health. Any order made pursuant to this section shall be published in such manner as the advisory council of health may direct and shall become effective at a date specified in said order. Such order shall be signed by the health commissioner and if applicable to the entire state be countersigned by the governor.

(10) **§ 6455 Assistants; offices; expenses.** Sec. 10. The state health commissioner may appoint such clerical assistants as may be necessary to enable him to perform the duties hereby imposed, or imposed by any other law of the state. It shall be the duty of the board of auditors to provide suitable quarters and facilities for the accommodation of the state health commissioner and the health department. All salaries and expenses incurred under this act shall be paid out of the amount specifically appropriated for the purpose of carrying out the provisions of this act with the approval of the state health commissioner.

(11) **§ 6456 Local health officers; powers and duties, co-operation.** Sec. 11. Subject to the provisions of this act, all city, village and township health officers, health board and health departments shall respectively perform the duties and exercise the powers now imposed and

granted by law. It shall be the duty of all local health officials to co-operate in every way possible with the state health commissioner and the state advisory council of health. Wilful failure to do so shall be deemed to be misfeasance in office.

(12) **§ 6457 Misdemeanor, penalty; right of individual to select physician.** Sec. 12. Any person violating any regulation, rule or order of the state health commissioner, or of the state health commissioner and the state advisory council of health, shall be deemed to be guilty of a misdemeanor and on conviction thereof shall be subject to a fine of not more than two hundred dollars or to imprisonment in the county jail not more than six months, or to both such fine and imprisonment in the discretion of the court. Nothing in this act shall be construed or operate to empower or authorize the state commissioner of health, or any health officer, or their representatives, to restrict in any manner the individual's right to select the physician or mode of treatment of his choice: Provided, That sanitary laws and the laws, rules and regulations relating to infectious and contagious diseases are complied with.

(13) **§ 6458 Branch laboratories; establishment, limit.** Sec. 13. Subject to the approval of the state administrative board the state health commissioner is authorized and empowered to establish, equip and maintain such number of branch bacteriological laboratories at suitable places within the state as may be found necessary for the proper protection of the public health and the furnishing of adequate laboratory service to those entitled thereto: Provided, however, That such number of branch laboratories, including the laboratory now maintained in the upper peninsula, shall not exceed three.

State Bacteriologist and Assistants

An Act to provide for the appointment of a bacteriologist by the state board of health; to provide for the purchase of the necessary appliances and apparatus for bacteriological examinations, and providing an appropriation therefor.

[Act 109, P. A. 1907.]

The People of the State of Michigan enact:

(14) **§ 6459 Bacteriologist, assistants; appointment, salaries.** Section 1. The state board of health is hereby authorized and empowered to employ a competent bacteriologist, whose duties shall be such as are or may be defined by law or defined by said board of health and shall be performed in connection with the department of public health. The salary of the person appointed bacteriologist shall be fixed by the said board of health. The state board of health is further authorized and empowered to employ such assistant bacteriologists as may be necessary to perform the work contemplated in this act; the salaries of such assistant bacteriologists shall be fixed by the state board of health.

See compiler's section 4, abolishing state board of health and transferring powers and duties to state health commissioner.

(15) **§ 6460 Same; duties.** Sec. 2. The bacteriologist whose appointment is herein provided for shall conduct the routine work in connection with bacteriological examinations and analyses that may be necessary, authorized or required by the provisions of this act or ordered or

directed by the said board of health, all of which shall be under the supervision of the secretary of said board.

(16) **§ 6461 Bacteriological examinations and water analysis, state board of health to make, upon request.** Sec. 3. The various boards of health, health officers, and all state institutions may require a bacteriological examination or analysis of blood, sputum, urine, water, milk, or other substance in localities where there is an outbreak of any contagious disease or epidemic in which bacteriological examination or analysis may be necessary to the public health and welfare, or for the purpose of locating sources of infection, or contamination of water, milk, ice, etc., as the case may be. The said state board of health shall also be required to make an examination and analysis of the water used by the public, and of public water supplies, when contamination is suspected, whenever the examination or analysis is required by the mayor of any city, the president of any village, or the supervisor of any township. Such boards or officers shall forward or deliver to the secretary of the state board of health a sample of the substance required to be analyzed, in a sealed package or jar accompanied by a statement from such board or officer, indicating the necessity for the analysis. The examination or analysis for the boards or officers above named shall be made free of charge.

Am. 1941, Act 63.

(17) **§ 6462 Apparatus, purchase; expenses, limitation, apportionment.** Sec. 4. The said board of health is hereby given authority to purchase any and all such apparatus and appliances as shall be necessary to carry out the provisions of this act: Provided, That the amount paid as salary to the bacteriologist and expended for apparatus and appliances, in any one year, shall not exceed the amount of the yearly appropriation provided for in this act: Provided further, That any part of the appropriation herein provided for, not expended for the salary of the bacteriologist or for purchasing apparatus, material and appliances, may be used by the said board of health in compiling general information in regard to bacteriological examinations and for such other purposes in connection with the bacteriological work of the department of public health as shall be deemed advisable and necessary by the said board.

Sec. 5. Appropriation and tax clause.

Branch Laboratory In Upper Peninsula

An Act to provide for the establishment of a branch bacteriological laboratory in the upper peninsula of the state and authorizing the employment of a bacteriologist to take charge thereof; to authorize the purchase of the necessary appliances and apparatus for such laboratory, and providing an appropriation therefor.

[Act 164, P. A. 1915.]

The People of the State of Michigan enact:

(18) **§ 6464 Branch laboratory; establishment; bacteriologist, duties; fees.** Section 1. The state board of health is hereby authorized and empowered to establish a branch bacteriological laboratory in the upper peninsula of the state, and to employ a competent bacteriologist to take charge of such laboratory, whose duties shall be such as are or may be

defined by law or defined by the state board of health, and shall be performed in connection with the department of the state board of health. The same fees shall be paid for examinations and analysis made by this said bacteriologist as are required by act one hundred nine of the public acts of nineteen hundred seven, as amended from time to time.

See compiler's section 4, abolishing state board of health and transferring powers and duties to state health commissioner.

(19) **§ 6465 Same; bacteriologist, salary; fees, disposition.** Sec. 2. The salary of the person appointed bacteriologist under this act shall be fixed by the state board of health, but shall not exceed the salary paid to the bacteriologist appointed under the provision of act one hundred nine of the public acts of nineteen hundred seven. Such salary shall be paid in the same manner as other employes of the state board of health are paid, and all fees paid or received by the said bacteriologist shall be immediately forwarded to the secretary of the state board of health at Lansing to be by him covered into the state treasury to the general bacteriological fund of the state as provided in section three of act one hundred nine of the public acts of nineteen hundred seven.

(20) **§ 6466 Same; apparatus, purchase; expenses, limitation; location; governing act.** Sec. 3. The state board of health is hereby authorized to purchase any and all such apparatus and appliances as shall be necessary to equip the branch laboratory authorized in this act: Provided, That the amount paid as salary to the bacteriologist and expended for the apparatus and appliances in any one year shall not exceed the amount of the yearly appropriation provided for in this act. The state board of health shall select and designate a central point in the upper peninsula for the location of said laboratory. In all matters not herein otherwise expressly provided for, the said branch laboratory shall be governed by the provisions of act one hundred nine of the public acts of nineteen hundred seven, as amended from time to time.

NOTE: Act 109 of 1907, above referred to, is compiler's secs. 14-17.
Secs. 4 and 5 are appropriation and tax clauses.

Crime Detection Laboratory

An Act to establish a state crime detection laboratory; to provide for the coordination of state laboratory facilities; to prescribe the powers and duties of the state department of health and the Michigan state police with respect thereto; and to cooperate with law enforcement officers.

[Act 62, P. A. 1941.]

The People of the State of Michigan enact:

(21) **State crime detection laboratory for use of law enforcement agencies; rules and regulations to carry out act.** Section 1. There is hereby established in the bureau of laboratories of the state department of health a state crime detection laboratory. The purpose of this act is to afford the several prosecuting attorneys, the attorney general, the Michigan state police and law enforcement officers of the state of Michigan facilities for examinations and analyses in matters of a criminal nature, to the end that the laws of this state may be enforced and violators brought to trial. The state commissioner of health and the commissioner of the Michigan state police, acting jointly, are hereby authorized

to promulgate the necessary rules and regulations to carry out the provisions and purposes of this act.

(22) **Commissioner of health to organize laboratory; equipment; use; expenses.** Sec. 2. It shall be the duty of the state commissioner of health to organize, equip and conduct said state crime detection laboratory. Said laboratory shall consist of personnel, apparatus and material necessary to the scientific investigation of matters of a criminal nature, and the facilities of such laboratory, including the personnel thereof, shall at all times be available for use by the several prosecuting attorneys, the attorney general, the Michigan state police and law enforcement officers. Expenses of establishing and maintaining said laboratory, and the fees of expert witnesses of such laboratory, shall be paid from the appropriation to the bureau of laboratories of the state department of health.

(23) **State laboratories to cooperate regarding violations of law.** Sec. 3. It shall be the duty of the persons in charge of the laboratories of other state departments, boards, institutions and commissions to cooperate with the state crime detection laboratory established under this act, and the state crime detection laboratory shall cooperate with the laboratories of other state departments, boards, institutions and commissions, in all matters involving a violation of the laws of this state.

Designation of Communicable Diseases

An Act in relation to the public health in this state.

[Act 298, P. A. 1909.]

The People of the State of Michigan enact:

(24) **§ 6607 Medical inspector; powers; communicable diseases, designation; local health authorities, duties.** Section 1. The state board of health is hereby authorized and empowered, whenever it becomes necessary to promote the work of the state board of health, to appoint any one of its members a state medical inspector, to the end that the rules and regulations adopted by said board for the preservation of public health may be strictly enforced in the various parts of the state. Any member of the board selected or appointed as a medical inspector, or any other person the board may so designate to act as a medical inspector, shall have the same right of inspection and the same authority in regard to all matters affecting the public health as has been or may be conferred upon the state or local boards of health. The said state board of health is hereby expressly authorized to designate what diseases are dangerous communicable diseases and what diseases are contagious diseases, and it shall be the duty of every local board of health and health officer to observe such rules in relation to dangerous communicable diseases and contagious diseases as may be prescribed by the said state board of health.

State board of health was abolished and powers and duties transferred to the state health commissioner. See compiler's sec. 4.

The power of a public health officer to make physical examinations of persons may not be exercised indiscriminately, but only in good faith and upon reasonable grounds.—Rock v. Carney, 216/283.

(25) **§ 6608 Same; duties.** Section 2. Every person selected to act as medical inspector shall act under the direction of the state board of health and shall make a thorough and complete investigation of all nuisances, sources of sickness, epidemics of infectious or dangerous communicable diseases or contagious diseases, water supplies, the sewerage disposal systems, the sanitary conditions of public vaults, jails, school houses and school grounds, and such other work as is found necessary to improve the general sanitary and hygienic condition of the state.

(26) **§ 6609 Same; reports.** Sec. 3. It shall be the duty of any person acting as such medical inspector after the completion of any investigation to immediately report in writing to the state board of health, upon such forms and in such manner as may be prescribed, a complete account of the essential facts disclosed by the investigation, together with the recommendations made and the work done to better safe-guard the public health.

(27) **§ 6610 Same; compensation and expenses.** Sec. 4. The compensation of any person selected to act as medical inspector, and the members of the state board of health when acting as medical inspectors, shall be determined by the state board of health. All actual expenses incurred by the medical inspector in the discharge of his official duties, together with his compensation, not to exceed ten dollars per diem, shall be paid from the general fund in the state treasury upon vouchers audited by the board of state auditors and approved by the state board of health.

Sec. 5 is the appropriation and tax clause.

Sec. 6 repeals inconsistent acts.

State Quarantine

An Act to provide for the prevention of the introduction and spread of cholera and other dangerous communicable diseases.

[Act 230, P. A. 1885.]

The People of the State of Michigan enact:

(28) **§ 6600 Communicable diseases, quarantine provisions; martial law.** Section 1. Whenever it shall be shown to the satisfaction of the state board of health, that cholera, diphtheria, or other dangerous communicable disease exists in any foreign country, neighboring state, or locality within this state whereby the public health is imperiled, and it shall be further shown that immigrants, passengers or other persons seeking to enter this state or to travel from place to place within this state, are coming from any locality where such dangerous communicable disease exists, the state board of health shall be authorized to establish a system of quarantine for the state of Michigan and the governor shall have authority to order the state militia to any section of the state on request of the state board of health to enforce such quarantine.

See compiler's section 4, abolishing state board of health and transferring powers and duties to state health commissioner.

This act is valid.—*Hurst v. Warner, 102/238.*

It was not intended by Act 47 of 1893 (amending Act 230, P. A. 1885) to confer on the board any power beyond that of fixing the method to be adopted in carrying into effect the details of the isolation, inspection, disinfection, etc., provided for by the law itself.—*Hurst v. Warner, 102/238, 246.*

Supreme court may take judicial notice that diphtheria is an infectious communicable disease.—*Janssen v. Mulder, 232/183.*

(29) **§ 6601 Quarantine purpose.** Sec. 2. Such quarantine shall be for the purpose of preventing all immigrants, passengers or other persons, under the circumstances mentioned in section one of this act, from entering the state or from going from place to place within the state, who, in the opinion of the state board of health, or in the opinion of an inspector duly appointed by said board, are likely to carry infection of cholera, small-pox, diphtheria or other dangerous communicable disease, and for the detention of all such persons outside the borders of the state, or if already within the state, at the places where they may be or at the place they have been exposed to or have contracted such dangerous communicable disease, or at such suitable place as such board may provide, during the period of the incubation of such disease, or of its existence if already developed, and until in the opinion of the state board of health such persons are free from all danger of infection.

(30) **§ 6602 General rules; communicable disease, protection; detention of conveyances; hearing.** Sec. 3. The state board of health is authorized to establish general rules, and, by an inspector acting by virtue thereof, to detain railroad cars or other public or private conveyances whenever it shall be shown to the satisfaction of such board, or to the inspector as provided in such rules, that such cars or other conveyances contain any passenger, person or property which has been exposed to cholera, diphtheria or other dangerous communicable disease, or when it shall be shown to the satisfaction of such board or inspector as aforesaid, any passenger, person or property, are being transported on such railroad cars or other public or private conveyance from any locality within or without this state where any such dangerous communicable disease exists and where under the circumstances shown to such board, such persons or property are likely to carry infection of such dangerous communicable disease. In such case said board may, by its duly constituted inspectors, remove, isolate, place under the care of local boards of health, order to be returned to the places whence they came, or dispose of in any other manner it may consider proper, all railroad cars, or other conveyances, all passengers in such railroad cars or other conveyances, when there is reason, as aforesaid, to believe such may have contracted or become infected with any dangerous communicable disease, or have been exposed or infected by any such disease in a manner likely to render them bearers of infection. In case any person or property is detained by an inspector, for any of the purposes mentioned in this act, the party or parties interested shall have a right to a hearing before the said board, and the decision of such board shall be final.

See notes under compiler's section 25.

(31) **§ 6603 Disinfection; persons and property.** Sec. 4. All such persons, their baggage and other personal effects, and all such conveyances shall be disinfected under such rules and regulations as the state board of health may establish for the purpose of carrying into effect the provisions of this act, before such persons or baggage or conveyances shall be permitted to enter the state, or to proceed to their or its destination if already in the state.

(32) **§ 6604 Same; property and conveyance; prohibition of entry.** Sec. 5. The state board of health is hereby authorized to cause the disinfection of goods, merchandise, conveyance or other property which they

have reason to believe may carry the germs of cholera or other dangerous communicable disease, and under the circumstances mentioned in sections two and three of this act, to prohibit the entry of such goods, merchandise or other property into the state, or their being moved if within the state, until such disinfection shall be accomplished.

(33) **§ 6605 Rules, publication; penalty.** Sec. 6. It shall be the duty of the state board of health to frame and publish rules for the inspection, isolation, detention, and disinfection contemplated in this act. Whoever shall willfully violate the rules of the state board of health, made in pursuance of this act, or the order, by its duly appointed inspector, made in obedience to such rules, shall be deemed guilty of a misdemeanor, and on conviction thereof shall be liable to payment of a fine of one hundred dollars and costs of prosecution, or imprisonment in the county jail for a period not to exceed ninety days, or both such fine and imprisonment, in the discretion of the court.

(34) **§ 6606 Expenses, payment.** Sec. 7. Upon the written request of the state board of health and the governor, the auditor general is hereby directed to draw his warrant on the state treasurer from time to time for such sums of money as may be necessary to be used by the state board of health to carry into full effect all the provisions of this act, said warrant to be paid from any money in the state treasury to the credit of the general fund not otherwise appropriated.

Manufacture of Biological Products

An Act to protect the public health; to provide for the manufacture and distribution by the state commissioner of health of antitoxin and other biological products for use in the control of communicable diseases; and to repeal act three hundred seventy of public acts of nineteen hundred twenty-one.

[Act 105, P. A. 1927.]

The People of the State of Michigan enact:

(35) **§ 6469 Biological products, sulphonamides, distribution by state.** Section 1. The state commissioner of health may manufacture and/or purchase antitoxin, sulphonamides, biological products, silver nitrate ampules, arsphenamines and heavy metals and distribute same throughout the state for use in the control of communicable diseases. Said commissioner is hereby authorized to adopt rules and regulations governing such distribution. Subject to the rules and regulations so prescribed, health officers and health boards, county hospitals and municipal hospitals of the various counties, cities, villages and townships of the state may from time to time make requisition on the state commissioner of health for such antitoxin, sulphonamides, biological products, silver nitrate ampules, arsphenamines and heavy metals for use in the control of communicable diseases, which requisitions shall, if deemed reasonable and necessary, be honored in the order in which the same are presented to said commissioner.

Am. 1942 (2nd ex. sess.), Act 20.

(36) **§ 6470 Supplies and labor.** Sec. 2. The commissioner may purchase such number of animals as may be required, and may employ necessary labor and purchase supplies requisite for the manufacture and distribution of such products.

Sec. 3 repeals Act 370, P. A. 1921.

Treating Eyes of New-born Infants

[Extract from Act 328, P. A. 1931.]

(37) Sec. 472. **Treating the eyes of newly born infants**—It shall be the duty of the state health commissioner to officially name and approve a prophylaxis to be used in treating the eyes of newly born infants, and it shall be the duty of the commissioner to publish instructions for using the same.

It shall be the duty of any physician, nurse or midwife who shall assist or be in charge at the birth of any infant, or have care of the same after birth, to treat the eyes of the infant with a prophylaxis approved by the state health commissioner; and such treatment shall be given within one hour after the birth of the infant if a physician, nurse or midwife is then present, or as soon thereafter as a physician, nurse or midwife is present; and if any redness, swelling, inflammation or gathering of pus shall appear in the eyes of such infant or upon the lids or about the eyes, within two weeks after birth, then any nurse, midwife or other person having care of the infant shall report the same to some competent practicing physician within six hours of its discovery.

Any person who shall fail to comply with any of the provisions of this section shall be guilty of a misdemeanor, punishable by imprisonment in the county jail not more than one year or by a fine of not more than five hundred dollars.

This section supersedes Act 123, P. A. 1913, §§ 6618-20, C. L. 1929, which was repealed by Act 328 of 1931, the penal code.

State Commissioner of Health as Registrar of Vital Statistics

An Act to provide for and define the duties of the state commissioner of health with reference to the registration of births and the issuance of birth certificates, the registration of deaths and the issuance of death certificates, the making and preservation of records of marriages, and with reference to the recording of other vital statistics; to provide for the transfer of certain powers and duties pertaining thereto from the secretary of state to the state health commissioner, and for the transfer of vital statistical records from the department of state to the department of health.

[Act 170, P. A. 1921.]

The People of the State of Michigan enact:

(38) **§ 6597 Transfers from secretary of state to commissioner of health; powers and duties.** Section 1. All powers and duties now vested by law in the secretary of state with reference to the registration of births and the issuance of birth certificates, the registration of deaths and the

issuance of death certificates, the recording of marriages and the collection, recording and preservation of other vital statistics are hereby transferred to and vested in the state commissioner of health. The state commissioner of health shall hereafter be vested with full authority, and shall be required to exercise such powers and perform such duties with reference to said matters as have heretofore been vested in, and required to be performed by the said secretary of state.

(39) **§ 6598 Same; records and data; duties of commissioner.** Sec. 2. As soon as may be after this act shall take effect, it shall be the duty of the secretary of state to cause to be transferred to the state commissioner of health all records, statistics and data and all blanks of any nature whatsoever pertaining to the matters in the previous section referred to. Upon receipt thereof, it shall be the duty of the state commissioner of health to keep and preserve said records in accordance with the laws pertaining thereto. All publications and reports of vital statistics heretofore required to be made from time to time by the secretary of state shall hereafter be made by the state commissioner of health.

Sec. 3 repeals all contravening acts.

Registration of Laboratories, etc., Handling Pathogenic Germs

An Act to protect the public health; to provide for the registration and supervision of laboratories where live pathogenic germs are handled; to prevent the use of bacteria for criminal purposes; to eliminate careless methods of transporting live germs, and to prescribe penalties for the violation of this act.

[Act 308, P. A. 1927.]

The People of the State of Michigan enact:

(40) **§ 6472 Places handling pathogenic germs, registration.** Section 1. All laboratories and other places where live pathogenic germs are handled or cultivated, shall be registered with the Michigan department of health, and a registration number shall be issued to each place registered. Registration and application for this registration number shall be made by the person, firm or corporation in charge of the laboratory or other place where such germs are handled. The registration number shall be valid for one year, at the expiration of which time it may be renewed upon application.

(41) **§ 6473 Container labels, contents; records.** Sec. 2. All live pathogenic germs or cultures of such germs when given away or sold by a laboratory or other person, shall bear a label on the container showing the registration number of the laboratory or other person, the name of the person or firm obtaining same, and the destination of the germs, and no person or laboratory shall sell or convey any live germs or culture to any other person or laboratory without the permission of the state commissioner of health. Such person or laboratory shall also keep a record of every sale, gift or other distribution of live germs, giving the name and residence of the recipient or purchaser, which record shall at all times be open to examination by any person or authority, and a copy of which record shall be filed with the department of health.

(42) **§ 6474 Penalty.** Sec. 3. Any violation of this act shall be deemed a misdemeanor punishable by a fine of two hundred dollars or six months' imprisonment, or both.

Public Laboratories

An Act to protect the public health; to provide for the registration and supervision of public laboratories making chemical, serological and/or bacteriological laboratory tests to aid in the diagnosis and/or control of communicable disease; and to prescribe penalties for the violation thereof.

[Act 45, P. A. 1931.]

The People of the State of Michigan enact:

(43) **Public laboratories, registration; defined.** Section 1. All public laboratories making chemical, serological and/or bacteriological laboratory tests to aid in the diagnosis and/or control of communicable disease shall be registered with the Michigan department of health, and a registration number shall be issued to each place registered. Registration and application for this registration number shall be made by the person, firm or corporation in charge of the laboratory making such tests. The registration number shall be valid for one year, at the expiration of which time it may be renewed upon application. A public laboratory shall be deemed to be a laboratory which may be patronized by any physician or physicians and/or health officer or health officers.

(44) **Regulations, etc.; publication; appeal.** Sec. 2. It shall be the duty of the state commissioner of health of this state, with the approval of the advisory council of health, to make and declare proper rules and regulations with reference to the operation of such laboratories, to the end that the public health shall be safeguarded by preventing the spread of disease and the existence of sources of contamination. Such rules and regulations shall be published in the manner provided by section seven of act number one hundred forty-six of the public acts of nineteen hundred nineteen, being section six thousand four hundred fifty-two of the compiled laws of nineteen hundred twenty-nine, for the publication of rules, regulations and ordinances adopted thereunder. Any person, firm or corporation in charge of such public laboratory, aggrieved by any interpretation by the state commissioner of health of such rules and regulations, may appeal to the advisory council of health at any of its regular quarterly meetings. A full and complete hearing shall be accorded such aggrieved party by the advisory council of health. The findings of fact by the advisory council of health shall be deemed final, but any interpretation of the law may be reviewed in the supreme court.

(45) **Laboratorian.** Sec. 3. Any such public laboratory making chemical or serological or bacteriological laboratory tests shall be under the supervision of a laboratorian who is a graduate of a college or university, of recognized standing, in chemistry, serology or bacteriology, respectively.

(46) **Inspection of laboratories.** Sec. 4. The state commissioner of health, or his authorized deputies, shall have the power to inspect such

laboratories in order to secure the enforcement of the provisions of this act, and to investigate all complaints received by him in writing as to the operation of such laboratories.

(47) **Penalty.** Sec. 5. Any person violating this act shall be guilty of a misdemeanor, and on conviction shall be liable to a fine of not more than two hundred dollars or to imprisonment in the county jail not more than sixty days, or to both such fine and imprisonment in the discretion of the court: Provided, That the provisions of this act shall not apply to laboratories operated under the supervision of the federal government.

Reporting of Occupational Diseases

An Act to protect the public health; to require the reporting of occupational diseases to the state department of health; to prescribe the duties and powers of the state department of health with reference thereto; and to prescribe penalties for the violation of the provisions of this act. (a)

[Act 119, P. A. 1911.]

The People of the State of Michigan enact:

(48) **§ 8613 Occupational disease; reports by physicians, etc., contents; use as public records.** Section 1. On and after the effective date of this enactment every physician, hospital superintendent, or clinic registrar having knowledge of a case of occupational disease shall within ten days report the same to the state department of health on a form provided by the state department of health, giving the name and address of the patient, the name and business address of the employer or employers, the business of the employer, the place of the patient's employment, the length of time of his employment in the place where he became ill, the nature of the disease, and any other information required by the state department of health. All such reports and all records and data of the state department of health pertaining to such diseases are hereby declared not to be public records. The department of labor and industry shall have access to any such record in any case where any complaint or suit shall have been brought before it.

Am. 1937, Act 210.

(49) **Same; definition.** Sec. 1a. An occupational disease, for the purpose of this statute, is an illness of the body which has the following characteristics:

1. It arises out of and in the course of the patient's occupation.
2. It is caused by a frequently repeated or a continuous exposure to a substance or to a specific industrial practice which is hazardous and which has continued over an extended period of time.
3. It presents symptoms characteristic of an occupational disease which is known to have resulted in other cases from the same type of specific exposure.
4. It is not the result of ordinary wear and tear of industrial occupation or the general effect of employment or the kind of illness that results from contacts or activities in life outside of the patient's occupational pursuits.

Added 1937, Act 210.

(a) Title Am. 1937, Act 210.

(50) **Same; report blanks.** Sec. 1b. The state commissioner of health is hereby authorized and directed to design and provide suitable blanks for reporting occupational diseases, and appropriate instructions for their use, and to furnish them freely to registered physicians, to medical clinics, hospitals, and industrial plants.

Added Id.

(51) **Investigation of reports.** Sec. 1c. Whenever the state commissioner of health receives a report as provided by section one or has reliable notice that there is within the state a case of occupational disease, he may cause an investigation to be made to determine the authenticity of the report and the cause of the disease.

Added Id.

(52) **Statistical summaries.** Sec. 1d. Once each year and at such other times as is deemed appropriate, the state department of health shall compile statistical summaries of all occupational diseases reported and accepted as covering true occupational diseases, together with the type of employment leading to the occurrence of such diseases. The state department of health shall disseminate to all employers of this state instruction and information deemed proper and expedient to prevent the occurrence of occupational diseases.

Added Id.

(53) **§ 8614 Reports; failure to make, falsification, penalty.** Sec. 2. Any physician, hospital superintendent, or registrar in charge of hospital or clinic records who shall fail to make any report required by the preceding section, or who shall wilfully make any false statement in such report, shall be deemed guilty of a misdemeanor and on conviction thereof shall be punished by a fine of not more than fifty dollars.

Am. 1937, Act 210.

(54) **§ 8615 Violations of act, prosecution.** Sec. 3. It shall be the duty of the state department of health and of the prosecuting attorney of the county where any one violating the provisions of this act may reside, to prosecute all violations of the provisions of this act which shall come to their knowledge.

Am. Id.

First Aid Kits on Trains

An Act to provide for the better protection of lives of passengers and employes on railroad trains and interurban electric trains and cars and to prescribe penalties for the violation thereof, and to repeal an act, entitled "An act to provide for the better protection of lives of passengers and employes on railroad trains and interurban electric trains and cars", being act number three hundred forty-two of the public acts of nineteen hundred nineteen.

[Act 176, P. A. 1927.]

The People of the State of Michigan enact:

(55) **§ 11462 First aid kit on railroad and interurban trains; location; exception.** Section 1. On and after the first day of November, nineteen hundred twenty-seven, every railroad company owning and operating any steam railroad or any interurban electric railway wholly or

partly within this state, shall provide and carry on each train operated by said company, one first aid kit, which shall be placed near the door of one of the coaches on passenger trains, and near the door of the caboose on freight trains so as to be readily accessible to passengers and employes for use in emergencies: Providing, This act shall not apply to trains in switching operations nor to electric street cars operated wholly within cities for local traffic.

(56) **§ 11463 Same; contents.** Sec. 2. The first aid kit shall at all times be equipped with and contain the following contents in a clean and sanitary condition:

- (1) One-half dozen four inch by four inch, gauze squares
- (2) One-half dozen three and one-half inch by three and one-half inch, bandage compress with bandage attached three and one-half inches by seventy-two inches
- (3) One-half dozen two and one-half inch by two and one-half inch, bandage compress with bandage attached two and one-half inches by thirty-six inches
- (4) One-fourth dozen rolls three inch by ten yards gauze bandage, plain
- (5) One first aid packet
- (6) One tourniquet
- (7) One-third dozen nine inch wood splints
- (8) One copy first aid instructions
- (9) One roll adhesive tape.

(57) **§ 11464 Same; removal of contents, penalty.** Sec. 3. Any person or employe of any railroad company or interurban railway company who shall remove or carry away from their proper place, except in case of accident or emergency, any of the contents specified in section two shall be deemed guilty of an offense, and upon conviction thereof may be punished by a fine not exceeding fifty dollars, or imprisonment in the county jail not exceeding thirty days or both such fine and imprisonment in the discretion of the court.

(58) **§ 11465 Failure to comply; penalty.** Sec. 4. Any railroad company or interurban railway company failing, refusing or neglecting to carry out the provisions of this act shall be deemed guilty of a misdemeanor, and upon conviction shall be fined in a sum not exceeding one hundred dollars for each offense.

(59) **§ 11466 Enforcement.** Sec. 5. The provisions of this act shall be enforced by the state commissioner of health.

Sec. 6 repeals Act 342, P. A. 1919.

Trailer Coach Parks

An Act to promote the health, safety, and welfare of persons living in trailer coaches, on trailer coach parks within the state of Michigan; and to define, license and regulate the maintenance, operation and inspection of trailer coach parks by the state health commissioner and school districts under which trailer coach parks shall be operated; to provide for the suspension, revocation, and transfer of licenses; to provide for the payment of annual and monthly license fees to the municipality, county, and school district for each trailer coach park; to provide for the registration of all persons occupying trailer coaches in trailer coach parks; to provide for the disposition of license fees between the municipality, county, and school districts, as collected; to require a surety bond for faithful compliance of the provisions of this act; and to provide remedies and penalties for the violation of this act. (a)

[Act 143, P. A. 1939.]

The People of the State of Michigan enact:

(60) **Trailer coach, definition; required health facilities for trailer coach parks.** Section 1. For the purpose of this act, a trailer coach is hereby defined and declared to be any vehicle used or so constructed as to permit its being used as a conveyance upon the public streets or highways and duly licensable as such, and shall include self-propelled and non-self-propelled vehicles so designed, constructed, reconstructed, or added to by means of accessories in such a manner as will permit the occupancy thereof as a dwelling or sleeping place for 1 or more persons, and having no foundation other than wheels, jacks, or skirtings when located in a duly licensed trailer coach park: Provided, That such parking sites are equipped with adequate safety and sanitary facilities as herein described, and such other rules and regulations as the state health commissioner shall deem necessary to the health of the residents of trailer coach parks and immediate adjacent communities.

Am. 1941, Act 255.

(61) **Trailer coach park, definition.** Sec. 2. For the purpose of this act, a trailer coach park is hereby defined and declared to be any site, lot, field, or tract of land upon which 3 or more occupied trailer coaches are harbored either free of charge, or for revenue purposes, and shall include any building, structure, tent, vehicle, or enclosure used or intended for use as a part of the equipment of such trailer coach park.

Am. *Id.*

(62) **Same; annual license to operate from state health commissioner; permits to construct or alter; application to be made through local health officials.** Sec. 3. No person, firm, or corporation shall establish, maintain, conduct, or operate a trailer coach park within the state of Michigan without first obtaining a license therefor from the state health commissioner. Such license or licenses shall be issued for 1 year, and shall expire at midnight on the thirtieth day of September next following the issuance thereof.

When a trailer coach park is located in more than 1 municipality it shall be dealt with as 2 separate trailer coach parks.

Each trailer coach park shall have a separate license.

(a) Title Am. 1941, Act 255.

All applications for a permit to construct or make alterations upon a trailer coach park and the appurtenances thereto, and a license to operate and maintain the same, shall be made to the state health commissioner, when said trailer coach park is to be located within the city limits of a city having an organized board of health, or in a county having a county health officer, the application shall be made to the state health commissioner through the city board of health, if located within the limits of a city; through the county health officer if located outside the limits of a city.

Am. Id.

(63) Application for license, contents; water supply; building codes; appeal to circuit court. Sec. 4. Before any such license shall issue, the applicant shall file with the state health commissioner a written application for such license, setting forth:

(a) The full name and address of the applicant or applicants, or names and addresses of the partners if the applicant is a partnership, or the names and addresses of the officers if the applicant is a corporation, and present or last occupation of the applicant at the time of the filing of the application.

(b) A legal description of the site, lot, field, or tract of land upon which it is proposed to operate and maintain a trailer coach park.

(c) The proposed and existing facilities on and about said site, lot, field, or tract of land for the proposed construction or alteration and maintaining of a sanitary community building for toilets, urinals, sinks, wash basins, slop-sinks, and showers, drains, laundry facilities, source of water supply; sewage, garbage and waste disposal; and method of fire protection, as in this act provided.

(d) The proposed method of lighting the structures and site, lot, field, or tract of land upon which said trailer coach park is to be located.

(e) Designate the calendar months of the year which applicant will operate said trailer coach park.

(f) The applicant shall furnish plot plans in detail and number of the land to be used as a trailer coach park, and building plans and specifications of existing buildings, buildings to be constructed or altered, together with all facilities, as may be required by the rules and regulations promulgated by the state health commissioner for the purposes of this act.

(g) Name of country of which applicant is a citizen.

(h) The affidavit of the applicant as to the truth of the application.

When municipal water and sewer systems are not available, plans and specifications for proposed private water supply and sewage disposal systems must be submitted to the state health commissioner for approval and issuance of a construction permit before construction is started.

All buildings constructed or altered, all plumbing, electrical and heating installations shall be in accordance with existing applicable codes.

If the application for a permit to construct or make alterations upon a trailer coach park and the appurtenances thereto or a license to operate and maintain the same is declined by the state health commissioner, he shall so state in writing giving the reason or reasons for declining the application. If the objections can be corrected the applicant may amend his application and resubmit it for approval, and if denied the

applicant may appeal de novo from the decision of the state health commissioner to the circuit court in chancery in the county in which said trailer coach park is located.

Am. Id.

(64) **Annual license fee; permit for construction or alteration required; issuance; inspection; compliance with building codes; depositing of proceeds of license; use.** Sec. 5. Upon presenting his application, together with all plans and specifications hereinbefore enumerated or prescribed by the state health commissioner, the applicant shall pay to the person authorized to accept his application a license fee equal to \$25.00 for each 10 acres, or fraction thereof, of land to be used as a site, lot, field, or tract of land upon which a trailer coach park will be constructed or altered, operated and maintained and take a receipt therefor.

When the application has been approved, the state health commissioner shall issue a permit to the applicant to construct or make alterations upon a trailer coach park and the appurtenances thereto according to the plans and specifications presented with the approved application.

When the applicant has completed the trailer coach park and the appurtenances thereto, he shall so notify the state health commissioner through the city board of health if the trailer coach park is located within the limits of a city having an organized board of health or through the county health officer if said trailer coach park is located outside the limits of a city in a county which has a county health officer; then the state health commissioner shall inspect or cause to be inspected by a duly authorized representative, the trailer coach park and the appurtenances thereto, and if completed according to the accepted application the state health commissioner shall issue in the name of the people of the state of Michigan a license to operate and maintain such trailer coach park.

No change or alteration in any building or enclosure, situate within the limits of a trailer coach park; no change in any sanitary or safety facilities; no change in drainage sewer; no change in methods of water supply, sewer, garbage or waste disposal; no change in the plot plan shall be made without first making a written application to the state health commissioner and receiving a written permit therefrom. Such application shall be made in the way and manner hereinbefore set forth; such change or changes shall comply with such safety and sanitary code, codes, rules and regulations as are applicable thereto.

No approval of plans and specifications and the issuance of a permit to construct or make alterations upon a trailer coach park and the appurtenances thereto by the state health commissioner shall be construed as having been approved for other than sanitation. Such a permit does not relieve the applicant from securing building permits in municipalities having a building code; or from complying with any other municipal ordinance or ordinances, applicable thereto, not in conflict with this statute.

Annual license fees collected by the city board of health or county health officer shall be deposited by the health officer with the treasurer of the board of health, and he shall keep such deposits in a special fund designated for use in carrying out the purposes of this act: Provided, however, That there is no municipal ordinance or regulation prohibiting a city board of health or county health officer from maintaining any such

special fund; in that case, all license fees collected shall be deposited and used in accordance with the municipal ordinances and regulations. Annual license fees collected by a state health commissioner shall be deposited with the state treasurer and placed in the general fund.

Am. Id.

(65) **Monthly license fee; basis for computation; collection by municipal treasurer; disposition of proceeds.** Sec. 6. In addition to the license fee provided for in section 5 hereof, each licensee shall pay an additional license fee of \$1.50 per month, or major fraction thereof, for each occupied trailer coach occupying space within said trailer coach park so licensed, which additional license fee shall be paid on or before the fifth day of each month by said licensee in the way and manner hereinafter prescribed: Provided, however, That the licensee of a trailer coach park shall not be required to pay a monthly license fee as herein provided, for any space occupied by a trailer coach accompanied by an automobile, if said trailer coach and automobile bear license plates issued by any state other than the state of Michigan, for an accumulated period not to exceed 90 days in any 12 month period: Provided further, That all the occupants of said trailer coach with accompanying automobile are tourists or vacationists. When 1 or more persons occupying a trailer coach bearing a foreign license are employed within the state of Michigan, there shall be no exemption from monthly license fees.

The monthly license fees of \$1.50 for each occupied trailer coach situated upon a licensed trailer coach park shall be divided as follows: For each \$1.50 collected, 75 cents shall be credited to the school board or boards for the district or districts in which such trailer coach is parked; 50 cents to the county treasurer; 25 cents to the municipality.

It shall be the duty of the treasurer of the municipality in which trailer coach parks are located to accept and verify the monthly reports from licensees and to collect and disburse the monthly license fees as hereinafter provided: The municipal treasurer shall issue a receipt in triplicate for all moneys collected, under this act, the original for licensees, the duplicate to be retained for municipal records, the triplicate and funds, less 25 cents per trailer coach so parked, shall be transmitted to the county treasurer; the municipal treasurer shall credit its general fund with 25 cents per trailer coach so deducted from moneys collected; the county treasurer shall credit its general fund with 50 cents for each trailer coach so parked, and shall credit the school district or districts, in which the trailer coach was parked, with 75 cents for each trailer coach so parked; the county treasurer shall issue an official receipt for all moneys collected: Provided, however, That if a trailer coach park be located within the limits of a city collecting its own delinquent tax, the city treasurer shall collect \$1.00 for each trailer so parked, and shall issue a receipt therefor, made in triplicate, the original for the licensee, duplicate to be retained for city records, and triplicate to be forwarded to the secretary of the board of education of the municipality. The city treasurer shall make a special account of moneys collected from licensees of trailer coach parks, and shall credit the school fund with 75 cents of each dollar so collected, and the general fund with 25 cents. When a trailer coach park is located within the limits of a city collecting its own delinquent taxes, the licensee shall make

a report to the county treasurer of the county in which said city is located, of the number of occupied trailers on his trailer coach park for the preceding month or the major fraction thereof, and pay to the county treasurer 50 cents for each trailer coach so parked; the county treasurer shall accept and verify said report and collect 50 cents per month or major fraction thereof, for each occupied trailer coach so parked within such city or cities within the county, and issue a receipt therefor in triplicate, the original for the licensee, the duplicate for the county records, and forward the triplicate to the county board of auditors, and credit the general county fund.

All payment or payments of monthly license fees shall be made by the licensee on or before the fifth day of each month for the preceding month.

Am. Id.

(66) **Revocation or suspension of license; notice to licensee to abate nuisance; court proceedings; duty of prosecuting attorney.** Sec. 6a. Any license granted hereunder shall be subject to revocation or suspension by a court of proper authority and jurisdiction: Provided, however, That the state health commissioner, or the city board of health if the trailer coach park is located within the limits of a city having an organized board of health, or by the county health officer if the county has a county health officer, or the state police or sheriff or any peace officer having jurisdiction thereof, shall first serve or cause to be served upon the licensee a written notice in which shall be specified the way or ways in which such licensee has failed to comply with this statute, or any special rules or regulations promulgated by the state health commissioner pertaining hereto. Said notice shall require the licensee to remove or abate such nuisance, insanitary or objectionable condition, specified in such notice, within 5 days, or within such longer period of time or extended period of time, as may be allowed by the complaining official or officer. If the licensee fails to comply with the terms and conditions of said notices, within the time specified or such extended period or periods of time the complaining official, state police, or peace officer making such complaint, may require the prosecuting attorney in the county in which such violation occurred to start a civil action to remove or abate such nuisance, insanitary or objectionable condition as complained of, in the court of proper authority and jurisdiction, of the city or county, in the name of the people of the state of Michigan; and if found guilty, a decision may be entered by the court to revoke or suspend such license.

Added 1941, Act 255.

(67) **Permit and license; unlawful to maintain park without; display.** Sec. 6b. It shall be unlawful for any person, firm, or corporation to establish, maintain, conduct, carry on, or operate a trailer coach park without first having received a permit to establish, construct, or make alteration upon, and a license to maintain, conduct, carry on, and operate a trailer coach park, duly signed and executed, in the name of the people of the state of Michigan, and signed by the state health commissioner, conspicuously displayed under glass, in the office of the trailer coach park.

Added Id.

(68) **Transfer of licenses; written consent of licensor required.** Sec. 6c. All licenses issued under this act shall be personal to the licensee and

be non-transferable without the written consent of the licensor first being obtained.

Added Id.

(69) Trailer coach parks; supervision; location and space; facilities required. Sec. 7. No domestic animals or house pets shall be allowed to run at large, or commit any nuisances within the limits of a trailer coach park. Each trailer coach park licensed under the provisions of this act shall, among other things, provide for the following, in the manner hereinafter specified, to wit:

(a) Supervision. Every trailer coach park shall be in charge of a responsible attendant or caretaker at all times, whose duty it shall be to maintain the park, its facilities and equipment in a clean, orderly and sanitary condition, and be answerable, with the licensee, for any violation of the provisions of this act.

(b) Location and space.

1. No trailer coach park shall be so located that the drainage of the park area will endanger any water supply. All such parks shall be well drained and shall be located in areas free from ponds, swamps, and similar places in which mosquitoes may breed. No waste water from trailer coaches shall be deposited on the surface of the ground.

2. Each trailer coach shall be allotted a site of not less than 700 square feet. No trailer coach shall be parked closer than 3 feet to the side lot lines of a trailer coach park, if the abutting property is improved property, or closer than 10 feet to a public street or alley. Each individual trailer site shall abut or face on a driveway or clear unoccupied space of not less than 20 feet in width, which space shall have unobstructed access to a public highway or alley. There shall be a space of at least 10 feet between every trailer coach. Such space shall not be used for parking motor vehicles.

(c) Water supply. An adequate supply of water of safe, sanitary quality, approved by the state department of health shall be furnished at each trailer coach park. Where water from other sources than that supplied by a city or village is proposed to be used, the source of such supply shall first be approved by the state health commissioner. At least 1 water supply outlet shall be provided within 100 feet of every individual trailer site.

(d) Toilet, bathing, and laundry facilities:

1. All plumbing in trailer coach parks shall comply with the state plumbing code, the rules and regulations of the Michigan department of health, and with any or all local ordinances pertaining to plumbing and the disposal of sewage and other water carried wastes.

2. Toilet facilities shall be provided in a building which is conveniently located, well constructed, having good natural and artificial lighting, adequate ventilation, and floors of concrete or similar impervious materials. Concrete curbings, extending at least 6 inches above the floor, should be provided and the floor sloped to adequate drains.

3. Separate toilet facilities plainly marked by appropriate signs shall be provided for males and females. When a water carriage system of sewage disposal is used, the community building shall be provided with toilet rooms in which shall be installed water closets with proper water supply. Each such water closet shall be placed in a separate compart-

ment, properly separated from any other water closet; each such compartment shall not be less than 3 feet wide and shall be enclosed with proper partition. Such water closet accommodation shall be provided in the ratio of 1 water closet for every 15 females, or less; and 1 such water closet for every 25 males, or less; and in addition at least 1 approved urinal for each male toilet room provided. Such water closet accommodation shall be based on the total park capacity, according to the accepted plans and specifications submitted to the state health commissioner, and shall be computed on the basis of a minimum of 3 persons to each trailer coach. For the purpose of this computation, the sexes shall be considered as being equal in number.

4. There shall be provided in every toilet room, or within 10 feet of the entrance thereof, proper facilities for washing hands, in the ratio of 1 lavatory or sink for every 2 or less water closets for women, and 2 lavatories or sinks for each water closet for men. Separate facilities shall be provided for each sex.

5. Every trailer coach park service building shall be provided with conveniently located, approved shower bath compartments, for both sexes. An adequate supply of hot and cold running water shall be available at all reasonable hours. A minimum of 1 approved shower head for every 20 persons for each sex or major fraction thereof, based on the estimated population, as hereinbefore provided. In combination with such shower stall, there shall be provided an individual dressing compartment not less than 2½ by 3 feet in plan, so arranged as to insure privacy and be protected by waterproof partition or shower curtain. The floor of such compartment shall be waterproof and elevated 3 inches above the floor of the shower stall. Mats, grids, and walkways made of wood, cloth or other absorbent materials will not be approved for use in bath section of service building.

6. A laundry room or building constructed as specified in section 7 (d) 2 shall be provided with hot and cold running water and sufficient laundry trays to accommodate the patrons of the trailer coach park: Provided, however, That no laundry trays shall be located in toilet or bathrooms.

(e) Disposal of sewage and other water carried wastes.

1. All sewage and other water carried wastes shall be disposed of into a municipal sewerage system whenever available. In trailer coach parks in which such connections are not available, disposal shall be into a private system which includes a sanitary means of disposal, the operation of which creates neither a nuisance or a menace to health.

2. When a water carriage system of sewage is used, each trailer coach lot shall be provided with a sewer connection for the combined liquid waste outlet or outlets of each trailer coach, and trapped below the frost line. It shall be the duty of the owner or operator of said trailer coach park to provide a water and odor tight connection from the trailer water drainage to the sewer connection, and it shall be the duty of said owner or operator to make such connection and keep all occupied trailer coaches connected to said sewer while located in a trailer coach park. Sewer connections in unoccupied trailer lots shall be so closed that they will emit no odors or cause a breeding place for flies. No water or waste shall be allowed to fall on the ground from a trailer coach.

3. A place of such a design and arrangement as to be easily kept clean and located within 200 feet of each individual trailer site shall be provided where slop pails and empty garbage cans may be cleaned. Water under pressure shall be available at such places and proper protection provided to prevent back-siphonage.

(f) Garbage and rubbish storage and disposal:

1. Flyproof and watertight metal containers shall be supplied for the storage of garbage. At least 1 container shall be provided for every 4 trailers.

2. Garbage cans shall be emptied at least every 2 days and shall not be filled to overflowing, or allowed to become foul smelling, or a breeding place for flies.

3. Garbage and rubbish shall be disposed of in a manner which creates neither a nuisance or a menace to health and which is approved by the state health commissioner.

(g) Central cooking and eating facilities: When community kitchens and dining rooms are provided, such facilities and equipment as are supplied must be maintained in a sanitary condition and kept in good repair.

(h) Electrical outlets: Electrical outlets for each individual trailer site shall be provided and the installation shall be in compliance with all state and local electrical codes and ordinances. No connected electric extension cord shall lie on the ground or be suspended less than 7 feet from the ground.

(i) Fire protection: Fire extinguishers of a type approved by the state fire marshal for use at trailer coach parks shall be placed at locations within 200 feet of each individual trailer site. Each fire extinguisher shall be periodically examined and kept at all times in a condition for use.

Am. 1941, Act 255.

(70) **Licenses and permits, filing of copies; forms for application.**
Sec. 7a. When the state health commissioner has approved an application for a permit to construct or make alterations upon a trailer coach park or the appurtenances thereto or a license to operate and maintain the same he shall retain the original and keep a file thereof. 1 copy shall be returned to the applicant or his agent, 1 copy to the city board of health if the trailer coach park is located within the limits of a city having an organized board of health, or to the county health officer if said trailer coach park is located outside the limits of a city in a county having a county health officer.

The state health commissioner shall draft and supply all forms and blanks and specify the number and detail necessary to obtain permits to construct or make alterations upon trailer coach parks; and for a license to operate and maintain such a park according to this act.

Added 1941, Act 255.

(71) **Record of local health officials; copy for state health commissioner.**
Sec. 7b. Each city board of health and county health officer shall keep a record of all trailer coach parks within his jurisdiction; said records to show the names and addresses of all trailer coach parks, names and addresses of the licensees, number of trailer coach lots in each park, source of water supply, system of sewage and garbage disposal, and any other information deemed essential by the state health commissioner; said records to be made in duplicate, 1 copy to be kept on file in the

office of the city board of health or county health officer compiling said record, and the duplicate to be delivered to the state health commissioner, who shall keep a record of all trailer coach parks in the state of Michigan. In municipalities or counties where there is no city board of health or county health officer, the state health commissioner shall compile said records in duplicate, keep 1 copy for his records, and deliver 1 copy to the clerk of the municipality in which such park or parks are located; said clerks to keep a permanent file of all records received by them of trailer coach parks within their jurisdiction.

Added Id.

(72) **Notice to treasurer of municipality; health regulations, furnishing and posting.** Sec. 7c. It shall be the duty of the state health commissioner to notify, or cause to be notified, the treasurer of each municipality of the issuance of each trailer coach park license issued within the jurisdiction of such treasurer.

It shall be the duty of the state health commissioner to supply licensees of all trailer coach parks with any and all health rules and regulations pertaining thereto made by the Michigan department of health, and any change or changes that may be made from time to time which shall be posted and kept posted by the management in a protected, conspicuous place within the trailer coach park.

Added Id.

(73) **Report of school children by licensee; fences; waste; driveways; toilet facilities; report of disease.** Sec. 7d. It shall be the duty of each licensee to file a report each month with the school board or boards of the school district or respective districts, wherein the trailer coach park is located, giving the names and ages of all children of school age in attendance thereof, living in said trailer coach park before the fifth day of each month.

If the owner or occupant of property adjacent to a trailer coach park should demand that a fence be built on his property lines, the operator of said trailer coach park shall build a suitable fence of not less than 4 feet in height or more than 6 feet in height, constructed of woven wire or open metal or a wooden fence. Barbed wire shall not be used in the construction of any fence.

No animal washing, car washing, or other slop creating practices shall be carried on in any trailer coach park, in any building, structure, or any other place within the trailer coach park, not designated and approved for such purposes.

All streets and driveways in every trailer coach park must be maintained in a passable and reasonably dustproof condition at all times, and shall have minimum width of not less than 20 feet.

Every trailer coach park and every portion thereof must be lighted at night.

Every trailer coach park shall be so arranged that the walking distance from any trailer coach unit parking site to water, toilet, and shower accommodations will not exceed 300 feet.

It shall be the duty of every owner, or operator, or attendant of any trailer coach park in the state of Michigan to report to the city board of health, county health officer, or state health commissioner, the full name,

age, and address of every person who is affected or suspected of being affected with any reportable or communicable disease.

The management of every trailer coach park shall assume full responsibility for maintaining in good repair and condition all sanitary and safety appliances on said park, and shall promptly bring such action as is necessary to prosecute or eject from said park any person or persons who wilfully or maliciously damage such appliances, or any person or persons who fail to comply with the regulations of this act.

Added Id.

(74) Inspection of trailer coach park annually, duty of health officers. Sec. 7e. It shall be the duty of the city board of health or the county health officer, if there be such in the municipality or county, or otherwise the state health commissioner, their inspectors or representatives, to inspect each trailer coach park at least once each year and oftener if necessary.

Added Id.

(75) Custodian's office; registration; registry of school children; preservation of records; penalty for giving false information. Sec. 8. Each trailer coach park shall be provided with a custodian's office where each trailer coach entering such trailer coach park shall be assigned to a lot location, given a copy of the trailer coach park rules, and registered according to the prescribed form. Said registrations shall include the name and address of every occupant of said trailer coach; the license number of all units; the state issuing such licenses; and a statement indicating the exact location at which such trailer coach was last parked, including the state, city, town, or village where such parking occurred, and the place to which said occupants declare a removal therefrom. The licensee shall keep a registry of all children of school age occupying trailer coaches in the trailer coach park. The above mentioned register shall be signed by an occupant of said trailer coach, cognizant of all facts contained in said registration. Any person furnishing misinformation for purposes of registration shall be deemed guilty of a misdemeanor and punishable under the general statutes of the state of Michigan for such offense. The registration records shall be neatly and securely maintained, and no registration records shall be destroyed until 6 years have elapsed following the date of registration. The register shall be available at all times for inspection by law enforcement officers.

Am. 1941, Act 255.

(76) School district board; right to inspect park, examine registry. Sec. 9. The school district board in the school district in which such trailer coach park is located, by and through its officers, attendance officers and proper employes, is hereby empowered and given authority to inspect and visit said trailer coach park for the purpose of examining said register with reference to children of school age, and examining said trailer coach park with reference to housing conditions of children of school age, and with reference to enforcing attendance of school children housed in said trailer coach park in the schools of said district: Provided, That where a trailer coach park is located in 2 or more school districts, the school district boards of said districts, acting jointly, shall be and are hereby authorized to proceed under the provisions of this section.

Whenever the school district boards of more than 1 district meet jointly, they shall elect 1 of their number chairman and another clerk thereof.

Am. Id.

(77) Surety bond to secure compliance with act, licensee to furnish. Sec. 10. As a condition precedent to the approval and granting of a license for a trailer coach park, each applicant for license of said trailer coach park shall make, execute, and deliver to the state health commissioner a bond or bonds to be executed by any surety company or companies authorized to do business in the state of Michigan, in an amount of \$1,000.00, for the faithful performance of the provisions of this act and the payment of all license fees provided for herein.

Am. Id.

(78) Violation of act, penalty. Sec. 11. Any violation of, or failure to comply with the provisions of this act, shall be punished with a fine of not to exceed \$100.00 and the costs of prosecution, and in default of the payment of such fine and costs, by imprisonment in the county jail or any workhouse in the state authorized to receive prisoners from the county where the violation occurred, for a period not to exceed 90 days, or by both such fine and imprisonment in the discretion of the court.

(79) Exemptions; municipally owned trailer coach parks. Sec. 12. Nothing in this act should be construed to include the state parks of Michigan.

The term "trailer coach park" shall not be construed to include buildings, tents, or other structures maintained by any individual or company on their own premises and used exclusively to house their own farm labor.

Any trailer coach park owned or operated by any municipal subdivision of the state of Michigan shall meet all sanitary and safety provisions of this act, shall be inspected as herein provided, shall pay or cause to be paid to the county treasurer, municipal treasurer and school board or school boards the respective amounts, as herein provided for the licensee to pay as monthly license fees, and keep a register and make all reports, as herein required of a licensee.

Am. 1941, Act 255.

(80) Enforcement of act and regulations of department; duty and authority of officials; annual inspection; access to premises. Sec. 13. It shall be the duty of the county health officer, in counties maintaining a county health officer, and the duty of the city board of health, in cities maintaining an organized board of health, the state health commissioner, sheriff, state police or any other peace officer, to enforce the provisions of this act and the rules and regulations of the Michigan department of health affecting health, sanitation, water supply, sewage, garbage and waste disposal, and the said health officer, or his inspectors, shall personally inspect, at least once each year, each trailer coach park and all the accommodations and facilities connected therewith. Such officials or officers are hereby granted the power and authority to enter upon the premises of such trailer coach parks at any time for the purposes herein set forth, or for the purpose of enforcing any other Michigan statute or municipal ordinance.

Added 1941, Act 255.

(81) **Half year license; fee; modification of sanitary requirements.** Sec. 14. If any applicant for a trailer coach park license desires to operate such trailer coach park only during the months of from May 1 to October 1, he shall pay only one-half the above mentioned annual license fee, but shall pay the monthly license fees during such months of operation as herein provided. If in the opinion of the state health commissioner, the sanitary requirements herein contained are too rigid for the trailer coach parks operating only between May 1 and October 1, he may modify such requirement as circumstances may permit and require.

Added Id.

(82) **Deputies, delegation of authority to, by officials.** Sec. 15. Whenever a power is granted to, or a duty is imposed upon a public officer, or city board of health, the power may be exercised or the duty may be performed by a deputy of the officer or city board of health, or by a person authorized, pursuant to law, by the officer or city board of health, unless this act expressly provides otherwise.

Added Id.

(83) **Severability clause.** Sec. 16. Should any sentence, word, phrase, clause, or provision of this act be held to be invalid for any reason, such holding shall not be construed as affecting the validity of any remaining portion of this act, it being the legislative intent that this act shall stand notwithstanding the invalidity of any such sentence, word, phrase, clause, or provision.

Added Id.

(84) **Repeal.** Sec. 17. All acts or parts of acts, in any way inconsistent with, or repugnant to, the provisions of this act are hereby repealed.

Added Id.

(85) **Emergency; immediate effect.** Sec. 18. This act shall be construed as an emergency act, for the public peace, health, and safety. There is a great shortage of habitable houses for defense workers and the trailer coach has become a necessity, and there is a great shortage and need of sanitary regulated trailer coach parks.

Added Id.

Storage and Disposition of Sewage

An Act to protect the public health; to regulate the storage and disposition of sewage; to empower the state commissioner of health to make rules in regard thereto; and to prescribe penalties for the violation of the provisions of this act and said rules.

[Act 273, P. A. 1939.]

The People of the State of Michigan enact:

(86) **Outhouse, defined; prohibited unless sanitary.** Section 1. It is hereby declared to be unlawful for any person, firm, association or corporation to maintain, or to permit to be maintained, on premises owned or controlled by such person any outhouse unless the same shall be kept at all times in a sanitary condition, and constructed and maintained in such manner as not to injure or endanger the public health. The term

"outhouse" as used herein shall be construed to mean a building or other structure not connected with a sewerage system or with properly installed and operated sewage disposal system, and which is used for the reception, disposition or storage, either temporarily or permanently, of feces or other excreta from the human body.

See compiler's sections 204-205.

(87) **State commissioner of health; rules and regulations governing outhouses; publication.** Sec. 2. It shall be the duty of the state commissioner of health of this state, with the approval of the advisory council of health, to make and declare proper rules and regulations with reference to the construction and maintenance of outhouses as defined in the preceding section, to the end that the public health shall be safeguarded by preventing the spread of disease and the existence of sources of contamination. Such rules and regulations shall be published in the manner provided by section 7 of Act No. 146 of the public acts of 1919, being section 6452 of the compiled laws of 1929, for the publication of rules and regulations adopted thereunder.

(88) **Violation of act; penalty; abatement of nuisance.** Sec. 3. Any person violating this act shall be guilty of a misdemeanor, and on conviction shall be liable to a fine of not more than \$200.00 or to imprisonment in the county jail not more than 60 days, or to both such fine and imprisonment in the discretion of the court. Any outhouse not constructed or maintained as required by the provisions of this act, or by the rules and regulations of the state commissioner of health provided for in section 2, shall be deemed to be a public nuisance, and injunction proceedings to restrain the further maintenance or use thereof are hereby expressly authorized.

(89) **Exemption of certain outhouses by location.** Sec. 4. Nothing herein contained shall apply to any outhouse located outside the corporate limits of any city or village, which is more than 200 yards from a residence other than the residence the outhouse serves, or more than 200 yards of any store, restaurant or other place where food, milk or drink is served, stored or prepared for human consumption, or more than 200 yards of any building used for public lodging or place where drinking water is offered to the traveling public, or more than 200 yards of a public gathering place.

Importation of Psittacine Birds

An Act to prohibit the importation of psittacine birds into the state of Michigan and to provide a penalty for violation of this act.

[Act 164, P. A. 1943.]

The People of the State of Michigan enact:

(90) **Importation of psittacine birds unlawful.** Section 1. No person shall bring into or import into the state of Michigan any bird of the psittacine family except when such birds are to be used for scientific studies aimed at improving the health of the people. Such importation of psittacine birds for scientific study is to be permitted only upon the approval of the state health commissioner, following written application for such importation.

(91) **Penalty for violation.** Sec. 2. Any person violating this act shall be guilty of a misdemeanor and upon conviction shall be punished as provided by the laws of this state.

Dairy and Food Laws

(92) "The food and drug commissioner (state department of agriculture) shall have charge and supervision of the enforcement of all the laws of this state relating to the dairy and food business" (§ 5395, C. L. 1929). See department of agriculture publication for laws relating to food, milk, slaughter houses, etc.

CHAPTER II.—LOCAL HEALTH ADMINISTRATION

County Health Departments

An Act to provide for county and district health departments, to provide for boards of health and health officers and to prescribe their powers and duties; and to repeal certain acts and parts of acts. (a)

[Act 306, P. A. 1927.]

The People of the State of Michigan enact:

(93) **§ 6545 County health department; county board of health, members, terms.** Section 1. The board of supervisors of any county in the state may provide for a county health department to be paid for out of the general funds of the county: Provided, That if the county has a department of health the board of supervisors may select a county board of health of 5 members, who may or may not be members of the board of supervisors, 1 to serve for 1 year, 1 to serve for 2 years, 1 to serve for 3 years, 1 to serve for 4 years, and 1 to serve for 5 years. The successor of each appointee shall be appointed to serve for 5 years and may be appointed to succeed himself.

Am. 1941, Act 198.

(94) **§ 6546 Same; plan of organization; approval by state health commissioner.** Sec. 2. The plan of organization for the county or district health department shall be approved by the state health commissioner.

Am. Id.

(95) **§ 6547 Health officer; selection, qualifications; to act as administrative officer of board.** Sec. 3. The county or district board of health shall select the health officer who shall possess the professional qualifications established and approved by the state health commissioner and shall act as the administrative officer of the board of health.

Am. Id.

(96) **§ 6548 Same; removal for incompetence or misfeasance; hearing.** Sec. 4. A county or district health officer may be removed for incompetence, or misfeasance of office by the county or district board of health, or by the state health commissioner, after due hearing.

Am. Id.

(a) Title Am. 1941, Act 198.

(97) **§ 6549 Jurisdiction of department; to employ physicians and nurses.** Sec. 5. The county health department shall have jurisdiction throughout the county in both indigent and non-indigent cases, except that it shall not have jurisdiction in non-indigent cases in cities having an organized health department with full time health officer, except that such cities may elect to join with the county in the organization. Subject to the approval of the board of supervisors, the county health department shall have the power to employ such physicians and nurses full or part time as shall be necessary to carry on its work.

Am. 1931, Act 15.

(98) **§ 6550 Powers and duties.** Sec. 6. The county or district board of health, or the health committee of the board of supervisors, shall have and exercise the same powers and perform the same duties of a board of health as conferred by law upon the boards of health of townships, villages and cities.

Am. 1931, Act 15; 1941, Act 198.

(99) **§ 6551 District health department; board, health officer; powers and duties; state supervision.** Sec. 7. Two or more counties may, by a majority vote of the board of supervisors of each county and the approval of the state health commissioner, unite to form a district maintaining a district health department. The district board of health shall be composed of representatives of the boards of supervisors. Each board shall elect three of their members as their representatives, except that, with the consent of the other boards in their district any board may have a greater or lesser number of representatives. The members of the district board shall meet as soon as possible after their selection and organize, electing such officers as they deem fit. The district board shall select the district health officer and with the state health commissioner shall exercise the same powers of control over him and in respect to the district health department as the board of supervisors has over the county health officer and in reference to the county health department.

Local boards of health are subject to jurisdiction of state health commissioner.—Op. Atty. Gen., April 6, 1940.

(100) **§ 6552 Same; claims, audit; appeal; apportionment.** Sec. 8. All claims against the district health department shall be audited by the district health board, which shall have the same power to allow these claims that a board of supervisors has in respect to claims against a county. There shall be the same right of appeal from their decision in respect to a claim as exists from a similar decision of a county board of supervisors. The total amount of the allowed claims shall then be apportioned among the counties of the district on the basis of tax valuation and vouchers issued therefor by the officers of the respective counties, for such amounts as shall be the share of that county.

(101) **§ 6553 State aid; limitation.** Sec. 8-a. When approved by the state health commissioner, the state auditor general shall refund to the county maintaining a county health department, either singly or united with other counties, not to exceed twenty-five per cent of the cost of maintenance of such department, payments to be made quarterly: Provided, That such refund shall not exceed three thousand dollars per annum for any such county or health district. The state treasurer shall also act as disbursing agent for the Michigan department of health in disbursing all

other funds received by said Michigan department of health for such county or district health service.

Sec. 9 repeals act number one hundred thirty of the public acts of nineteen hundred seventeen, and all other acts or parts of acts in conflict herewith.

Township Board of Health

[Extracts from Chap. 35, R. S. 1846.]

(102) **§ 6475 Township board of health; record of proceedings.** Section 1. In every township the township board shall be the board of health. The supervisor shall be the president, and the township clerk shall be the clerk of said board. The clerk shall keep a record of the proceedings of the board in a book to be provided for that purpose at the expense of the township.

The care of the public health is a police power. Whatever differences of opinion may exist as to the extent and boundaries of the police power, and however difficult it may be to render a satisfactory definition of it, there seems to be no doubt that it does extend to the protection of the lives, health and property of the citizens and to the preservation of good order and public morals.—*Davock v. Moore*, 105/120, 132.

(103) **§ 6476 Health officer; appointment, notice to state board; township board, meetings, duties.** Sec. 2. Every board of health shall appoint and constantly have a health officer, who shall be a well educated physician, and act as the sanitary adviser and an executive officer of the board: Provided, That in townships where it is not practicable to secure the services of a well educated and suitable physician, the board may appoint the supervisor or some other person as such health officer. The board of health shall establish his salary or other compensation, and shall regulate and audit all fees and charges of persons employed by them in the execution of the health laws and of their own regulations, except as hereinafter provided in section fifteen hereof with regard to dangerous communicable diseases. Within thirty days after the annual township meeting in each year, the board of health shall meet for the transaction of business, and shall appoint or reappoint a health officer, and shall immediately cause to be transmitted to the secretary of the state board of health, at Lansing, the full name and postoffice address of such health officer, and a statement whether he is a physician, the supervisor, or some other person not a physician. A special meeting of the board may be called by the order of the president or of any two members of said board.

(104) **§ 6477 Rules of local boards; nuisances, sources of infection; violation, penalty.** Sec. 3. The board of health shall make such regulations and by-laws respecting nuisances, sources of filth and causes of sickness, within their respective townships, and on board of any vessels in their ports or harbors, as they shall judge necessary for the public health and safety, and if any person shall violate any such regulations or by-laws he shall be deemed guilty of a misdemeanor and on conviction thereof, shall be punished by a fine not exceeding the sum of one hundred dollars, or by imprisonment in the county jail not exceeding ninety days, or by both such fine and imprisonment, in the discretion of the court.

Imprisonment of woman for violation of city health ordinance is not imprisonment of female on process in civil action, the prosecution being disposed of according to criminal procedure.—*Stewart v. Hart*, 196/137.

Whether state department of health has authority to act on petition concerning noxious odors depends upon whether such odors constitute a menace to public health.—Op. Atty. Gen., Aug. 6, 1941.

(105) **§ 6478 Same; articles conveying infection; violation, penalty.** Sec. 4. The said board shall also make such regulations as they may deem necessary for the public health and safety, respecting any articles which are capable of containing or conveying any infection or contagion, or of creating any sickness, when such articles shall be brought into, or conveyed from their township, or into, or from any vessel; and if any person shall violate any such regulation, he shall forfeit a sum not exceeding one hundred dollars.

(106) **§ 6479 Same; cemeteries; purchase of necessary grounds.** Sec. 5. The said board shall also make all regulations which they may deem necessary for the interment of the dead, and respecting burying grounds, for their township; and it shall also be the duty of said board to purchase in each surveyed township so much land for burying grounds as shall be necessary for burying the dead of such township, provided suitable grounds therefor can be found and procured within the township, and if not, they shall then provide such grounds in the nearest adjoining township where such suitable grounds can be procured.

This statute makes it the duty of the township board of health to provide and maintain burial grounds, but contains no provisions for condemnation of land for cemetery purposes.—Portage Twp. Bd. of Health v. VanHoesen, 87/533, 534.

Boards of health have large discretionary powers in providing for interment of the dead. These powers they must exercise according to their own judgment, and no appeal is provided for, whereby their action can be reviewed by any superior authority empowered to substitute its judgment for theirs. But if discretion is abused or their judgment improperly exercised there is no doubt of right of judiciary to restrain abuse.—Upjohn v. Richland Twp., 46/542, 544.

(107) **§ 6480 Township cemeteries; board of health to hold fee in trust; fences; separate funds for cemeteries in same township; sale of lots; expenses; maps, filing.** Sec. 6. The board of health of the township for which such burying ground shall be procured, and their successors in office, shall hold the fee of such land in trust for such township; and they shall keep the same, or so much thereof, as said board shall deem necessary, surrounded with a good and substantial fence; the expense of the purchase of such lands, and of fencing and regulating the same, to be certified to the town board by the board of health, and by the town board provided for as a part of the contingent expenses of the township: Provided, however, That the board of health may, whenever they think it desirable, sell and convey single or family burial lots in said township burying grounds to such person or persons as may desire to procure the same, and apply the proceeds thereof toward the purchase or improvement of said grounds, certifying the amount of all such sales and expenditures to the township board, as above provided: Provided further, That where there is more than one township burying ground in any one township, the moneys derived from the sale of lots in each of said burying grounds shall be kept separate and no moneys derived from the sale of lots in one of such burying grounds shall be used for the upkeep, maintenance, enlargement or beautification of any of the other township burying grounds, and a separate trust fund may be established by said board for one or more of each of said township burying grounds, and the moneys derived from the sale of lots in any one burying ground shall be used exclusively for the maintenance and upkeep of that burying ground: Provided further, That before said board of health shall sell or offer to sell any lot or lots as above provided, they shall cause said burying ground to be laid out in such form as they may choose, and cause two

maps thereof to be made, which maps shall accurately describe the lands belonging to such burying grounds, its boundaries and location, with the lots or subdivisions named or numbered thereon, and also their size, situation and extent, with the width, extent and location of all the streets, alleys or walks in such burying ground, which maps shall be prepared under the supervision and direction of the health officer and clerk of said board of health, and certified by them to be a correct map of the said burying ground. One of said maps shall be filed with the clerk of said board of health and the other with the register of deeds of the county in which such burying ground is situated.

Am. 1931, Act 179.

(108) **§ 6481 Notice of regulations.** Sec. 7. Notice shall be given by the board of health, of all regulations made by them, by publishing the same in some newspaper of the township, if there be one published therein, and, if not, then by posting them up in five public places in such township; and such notice of said regulations shall be deemed legal notice to all persons.

(109) **§ 6482 Nuisances and sources of infection; examination by board, eradication.** Sec. 8. The board of health shall examine into all nuisances, sources of filth and causes of sickness that may, in their opinion, be injurious to the health of the inhabitants within their township, or in any vessel within any harbor or port of such township; and the same shall destroy, remove, or prevent, as the case may require.

See compiler's sections 209-212.

(110) **§ 6483 Same; order to remove; penalty.** Sec. 9. Whenever any such nuisance, source of filth, or cause of sickness, shall be found on private property, the board of health shall order the owner or occupant thereof, at his own expense, to remove the same within twenty-four hours; and if the owner or occupant shall neglect so to do, he shall forfeit a sum not exceeding one hundred dollars.

(111) **§ 6484 Same; failure to remove; removal by board; expenses, assessment; civil liability.** Sec. 10. If the owner or occupant shall not comply with such order of the board of health, such board may cause the said nuisance, source of filth or cause of sickness to be removed and all expenses incurred thereby shall be paid by the said owner of such premises. If the owner of said premises shall refuse on demand of said board of health to pay such expenses so incurred, any sums so paid shall be assessed against such property and shall be collected and treated in the same manner as are taxes assessed under the general laws of the state. If the occupant or any other person shall have caused or permitted said nuisance to exist he shall be liable to the owner of said premises, for any amount so paid by such owner or assessed against said property which amount shall be recoverable in an action at law.

(112) **§ 6485 Same; court order to remove.** Sec. 11. Whenever any person shall be convicted, on an indictment for a common nuisance that may be injurious to the public health, the court may, in its discretion, order it to be removed or destroyed at the expense of the defendant, under the direction of the board of health of the township where the nuisance

is found; and the form of the warrant to the sheriff or other officer may be varied accordingly.

In a suit by a property owner to restrain the maintenance of a slaughter house, a court of equity in determining whether it will destroy defendant's business, will consider whether the thing complained of is noxious or only disagreeable, and also whether complainant voluntarily put himself into the disagreeable neighborhood.—*Balentine v. Webb*, 84/38, 48.

(113) **§ 6486 Refusal of entry for examination of building; complaint.** Sec. 12. Whenever the board of health shall think it necessary, for the preservation of the lives or health of the inhabitants, to enter any building or vessel in their township, for the purpose of examining into and destroying, removing or preventing any nuisance, source of filth, or cause of sickness, and shall be refused such entry, any member of the board may make complaint, under oath, to any justice of the peace of his county, whether such justice be a member of such board or not, stating the facts of the case, so far as he has knowledge thereof.

(114) **§ 6487 Same; warrant to sheriff.** Sec. 13. Such justice may thereupon issue a warrant, directed to the sheriff or any constable of the county, commanding him to take sufficient aid, and being accompanied by any two or more members of said board of health, between the hours of sunrise and sunset, to repair to the place where such nuisance, source of filth, or cause of sickness complained of may be, and the same destroy, remove or prevent, under the direction of such members of the board of health.

(115) **§ 6488 Removal permits.** Sec. 14. The board of health may grant permits for the removal of any nuisance, infected article, or sick person, within the limits of their township, when they shall think it safe and proper so to do.

BOARDS OF HEALTH IN CITIES AND VILLAGES.

(116) **§ 6524 Board members, duties.** Sec. 49. The mayor and aldermen of each incorporated city, and the president and council, or trustees of each incorporated village in this state, in which no board of health is organized under its charter, shall have and exercise all the powers and perform all the duties of a board of health as provided in this chapter, within the limits of the cities or villages, respectively, of which they are such officers. The provisions of this chapter, and the amendments thereto, shall, as far as applicable, apply to all cities and villages in this state, and all duties which are, by the provisions of this chapter, to be performed by the board of health of townships, or by the officers and inhabitants thereof, shall in like manner be performed by the board of health and the officers and inhabitants of such cities and villages, with a like penalty for the non-performance of such duties, excepting in cases where the charters of such cities and villages contain provisions inconsistent herewith.

The legislative intent is and has been to preserve to each municipality its constitutional right of local self-government.—*Summit Twp. v. City of Jackson*, 154/37, 41.

The public welfare requires more prompt and stringent measures to prevent the spread of an infectious disease in large cities than are required in rural districts or villages.—*Highland v. Schulte*, 123/360, 363.

Powers of Villages

[Extracts from Act 3, P. A. 1895.]

CHAPTER VII—POWERS OF COUNCIL.

(117) **§ 1549 General powers.** Section 1. Every village subject to the provisions of this act, shall, in addition to such other powers as are conferred, have the general power and authority granted in this chapter, and the council may pass such ordinances in relation thereto as it may deem proper, namely:

* * * * *

Third, To abate nuisances and preserve the public health;

* * * * *

Thirteenth, To regulate or prohibit bathing in the rivers, ponds, streams and waters of the village;

* * * * *

Nineteenth, To prevent the running at large of dogs, to require them to be muzzled, and to authorize their destruction if found at large, in violation of any ordinance of the village;

(118) **§ 1577 Private drains; construction, regulation; failure, work at private expense.** Sec. 29. Whenever the council shall deem it necessary for the public health, they may require the owners and occupants of lots and premises to construct private drains therefrom to connect with some public sewer or drain, and thereby to drain such lots and premises; and to keep such private drains in repair and free from obstruction and nuisance; and if such private drains are not constructed and maintained according to such requirement, the council may cause the work to be done at the expense of such owner or occupant, and the amount of such expense shall be a lien upon the premises drained, and may be collected by special assessment to be levied thereon.

MARKETS.

(119) **§ 1589 Establishment; regulation.** Sec. 41. The council of any village shall have the power to establish and regulate markets and market places, for the sale of meats, fish, vegetables, and other provisions and articles necessary for the sustenance and convenience of the inhabitants; to prescribe the times for opening and closing the same; the kind and description of articles which may be sold; and the stands and places to be occupied by the venders.

(120) **§ 1590 Regulations; adoption, enforcement.** Sec. 42. The council may adopt and enforce such regulations as may be necessary to prevent fraud and to preserve order in the markets; and may authorize the immediate arrest, and removal from the market, of any person violating such regulations, together with any article in his possession; and may authorize the seizure and destruction of tainted or unsound meats, or other provisions exposed for sale therein, or elsewhere in the village.

PUBLIC HEALTH.

(121) **§ 1595 Authorized village ordinances.** Sec. 47. The council of any village may enact all such ordinances as may be deemed necessary for the preservation and protection of the health of the inhabitants thereof, and to prevent the introduction of malignant, infectious, or contagious diseases within the village or within one mile thereof; and for the removal of persons having such diseases, or who, from exposure thereto, or otherwise, may be suspected or believed to be liable to communicate the same, either beyond the corporate limits, or to such hospital or place of treatment within the village as the council may prescribe and the public safety may require.

Since passage of Acts 7 and 101 of 1903, being §§ 6489 and 6476 respectively, C. L. 1929, no action lies against a village for service rendered by a nurse in caring for persons sick with contagious diseases, even at request of village board of health. The remedy being to present claim properly itemized by board of health, to county board of supervisors.—*Sawyer v. Manton*, 145/272. See also *Summit v. Jackson*, 154/37.

See compiler's secs. 103 and 170.

(122) **§ 1596 Nuisances; prevention, abatement.** Sec. 48. The council shall have power to prevent and remove or abate all nuisances dangerous to life or health within the village; and may require any person, corporation or company causing such nuisance, and the owner or occupant of any lot or premises upon or in which any such nuisance or cause of disease may be found, to remove or abate the same upon such notice, and within such time and in such manner as the council may by ordinance or resolution direct.

(123) **§ 1597 Same; unwholesome premises.** Sec. 49. If any cellar, vault, lot, sewer, drain, place or premises within the village, shall be damp, unwholesome, offensive or filthy, or be covered during any portion of the year with stagnant or impure water, or shall be in such condition as to produce offensive exhalations, the council may cause the same to be drained, filled up, cleansed or purified; or may require the owner or occupant, or person in charge of such lot, premises or place, to perform such duty; and may require the owner or occupant of any building, fence or structure which may be ruinous, or liable to fall and injure persons or property, to pull down or remove the same, or the council may cause the same to be done by any officer of the village.

(124) **§ 1598 Same; removal at private expense; collection of expenses.** Sec. 50. If the owner or occupant of any lot or premises, when required by the council or board of health to remove any unsafe building or structure, or to cleanse, purify or drain such lot or premises, or to abate or remove any nuisance therefrom, shall neglect so to do, and the council shall incur any expense in causing the same to be done, such expense may be charged upon such lot or premises, and collected as a special assessment thereon; or such expense may be recovered by the village in an action of debt or assumpsit against the owner or occupant of any such lot or premises.

(125) **§ 1599 Offensive trades, location.** Sec. 51. The council, when they shall deem it necessary, may from time to time assign, by ordinance, certain places for the exercise of any trade or employment offensive to the inhabitants, or dangerous to the public health; and may forbid the exercise thereof in places not so assigned; and may change or revoke such assignments at pleasure; and whenever a business carried on in any place so assigned or in any other place in the village, shall become hurtful

and dangerous to the health of the neighborhood, the council may prohibit the further exercise of such business or employment at such place.

(126) **§ 1600 Village hospital, personnel; infected persons; regulations.** Sec. 52. The council may provide for the appointment of the necessary officers and employes for the management of the village hospital and for the care and treatment therein of such sick and diseased persons as to the council or board of health of the village shall seem proper; and by direction of the council or board, persons having any malignant, infectious, or contagious disease, may be removed to such hospital, and there detained and treated, when the public safety may so require; and the council may provide such restraints and punishments as may be necessary to prevent any such person from departing from such hospital until duly discharged.

(127) **§ 1601 Council, powers of board of health.** Sec. 53. The council shall have and exercise all the powers and authority conferred upon boards of health by the general laws of the state, so far as the same are applicable; and they may enact such ordinances as may be necessary for regulating the proceedings and mode of exercising such powers.

As to the powers and duties of council as a board of public health, see *Rae v. Flint*, 51/526; *Murray v. Village of Grass Lake*, 125/2, 5.

(128) **§ 1602 Board of health; establishment, duties, powers.** Sec. 54. When the council shall deem it necessary, they may establish a board of health for the village, and appoint officers therefor, and make rules for its government, and invest it with such powers and authority as may be necessary for the protection and preservation of the health of the inhabitants.

[Extracts from Act 278, P. A. 1909.]

(129) **§ 1785 Compulsory charter provisions.** Sec. 23. Each village charter as hereafter adopted or amended shall provide:

* * * * *

(f) For the public peace and health, and for the safety of persons and property;

* * * * *

Am. 1941, Act 285.

(130) **§ 1786 Permissible charter provisions.** Sec. 24. Each village may in its charter provide:

* * * * *

Sewage, garbage; purchase of lands. (h) For acquiring by purchase, land without its corporate limits necessary for the disposal of sewage and garbage, or for any purpose authorized by the constitution or general laws;

* * * * *

Control of water courses. (k) For the use, control and regulation of streams, waters and water courses within its boundaries, but not so as to conflict with the laws or action thereunder where a navigable stream is bridged or dammed.

Regulations, enforcement. (1) For the enforcement of all such local, police, sanitary and other regulations as are not in conflict with the general law;

* * * * *

(131) **§ 1788 Condemnation.** Sec. 26. (g) Any village whether incorporated under the provision of this act or under any existing charter of the village heretofore granted or passed by the legislature for the government of a village, may acquire by purchase or condemnation proceedings land without its corporate limits necessary for the disposal of sewage or the obtaining or protection of a water supply for the village or the inhabitants thereof. The jury in condemnation proceedings shall consist of twelve freeholders drawn from the body of the county, and if they shall determine that such use is necessary, and that the use proposed will not materially injure the health or safety of the persons living adjacent to the land, they shall award the compensation to be paid therefor. Other proceedings in such cases shall conform to the general law authorizing cities and villages to take or hold land or property within their corporate limits;

* * * * *

[Extract from Act 8, P. A. 1895.]

CHAPTER XIII—APPROPRIATION OF PRIVATE PROPERTY.

(132) **§ 1693 Authorized purposes.** Section 1. Private property may be taken and appropriated for public use in any such village for the purpose of opening, widening, altering and extending streets, alleys and avenues; for the construction of bridges, for public buildings and for other public structures; for public grounds, parks, market places and spaces; for public wharves, docks, slips, basins and landings on navigable waters, and for the improvement of water courses; for sewers, drains and ditches, for public hospitals, pest houses, quarantine grounds and public cemeteries, and for other lawful and necessary public uses.

Condemnation proceedings of a strip adjoining a public highway not affected by dedication of a larger strip by property owners.—Village of Hamtramck v. Simons, 201/458; Justices of the peace duties at the most are advisory and the award is the award of the jury.—Village of Paw Paw v. Flook, 214/486.

Powers of Cities

[Extract from Act 215, P. A. 1895.]

CHAPTER XI—GENERAL POWERS OF CITY CORPORATIONS.

(133) **§ 1945 General powers.** Section 1. Every city incorporated under the provisions of this act, shall, in addition to such other powers as are herein conferred, have the general powers and authority in this chapter mentioned; and the council may pass such ordinances in relation thereto, and for the exercise of the same, as they may deem proper, namely:

* * * * *

Nuisances. Third, To prevent injury or annoyance from anything dangerous, offensive, or unhealthy; to prohibit and remove anything

tending to cause or promote disease; to prevent and abate nuisances, and to punish those occasioning them, or neglecting or refusing to abate, discontinue or remove the same;

* * * * *

Food inspection. Seventeenth, To provide for and regulate the inspection of meats, poultry, fish, butter, cheese, lard, vegetables, flour, meat and other provisions;

* * * * *

Sewers; water equipment. Twentieth, To regulate the construction, repair and use of vaults, cisterns, areas, hydrants, pumps, sewers and gutters;

* * * * *

Bathing in city waters. Twenty-second, To regulate or prohibit bathing in the rivers, ponds, streams and waters of the city;

Rivers, cleaning. Twenty-third, To provide for clearing the rivers, ponds, canals and streams of the city, and the races connected therewith, of all driftwood and noxious matter; to prohibit and prevent the depositing therein of any filth or other matter tending to render the waters thereof impure, unwholesome and offensive;

Abatement of nuisances. Twenty-fourth, To compel the owner or occupant of any grocery, tallow chandler shop, soap or candy factory, butcher shop or stall, slaughter house, stable, barn, privy, sewer, or other offensive, nauseous, or unwholesome place or house, to cleanse, remove or abate the same whenever the council shall deem it necessary for the health, comfort, or convenience of the inhabitants of the city;

* * * * *

Cellars, privies, barns, drains. Twenty-sixth, To direct and regulate the construction of cellars, slips, barns, private drains, sinks and privies;

* * * * *

Toy pistols. Thirty-third, To prohibit and punish the use of toy pistols, sling shots and other dangerous toys or implements within the city;

* * * * *

Fountains; reservoirs. Thirty-sixth, To provide for, establish, regulate and preserve public fountains and reservoirs within the city, and such troughs and basins for watering animals as they may deem proper.

CHAPTER XIV—PUBLIC HEALTH.

(134) **§ 1962 Ordinances.** Section 1. The council of any city may enact all such ordinances as may be deemed necessary for the preservation and protection of the health of the inhabitants thereof, and to prevent the introduction of malignant, infectious or contagious diseases within the city, or within one mile thereof; and for the removal of persons having such diseases, or who, from exposure thereto or otherwise, may be suspected or believed to be liable to communicate the same, either beyond the city limits or to such hospital or place of treatment within the city as the council may prescribe, or the public safety may require.

As to authority of city authorized under special charter to establish hospital for contagious diseases, beyond limits of city, see *Summit Twp. v. Jackson*, 154/37, 39.

(135) **§ 1963 Nuisances, abating.** Sec. 2. The council shall have power to prevent and remove or abate all nuisances dangerous to life or health within the city; and may require any person, corporation or company, causing such nuisance, and the owner or occupant of any lot or premises upon or in which any such nuisance or cause of disease may be found, to remove or abate the same, upon such notice, and within such time, and in such manner as the council may by ordinance or resolution direct.

(136) **§ 1964 Unwholesome conditions, remedying; dangerous buildings, removal.** Sec. 3. If any cellar, vault, lot, sewer, drain, place, or premises within the city shall be damp, unwholesome, offensive or filthy, or be covered during any portion of the year with stagnant or impure water, or shall be in such condition as to produce unwholesome or offensive exhalations, the council may cause the same to be drained, filled up, cleaned, amended or purified; or may require the owner or occupant, or person in charge of such lot, premises or place, to perform such duty and may require the owner or occupant of any building, fence or structure, which may be dangerous or liable to fall and injure persons or property, to pull down or remove the same; or the council may cause the same to be done by the proper officers of the city.

(137) **§ 1965 Abatement of nuisances, recovery of expense.** Sec. 4. If any person, corporation or company shall neglect to remove or abate any nuisance, or to perform any requirement made by or in accordance with any ordinance or resolution of the council, or by the board of health of the city, for the protection of the health of the inhabitants, and if any expense shall be incurred by the city in removing or abating such nuisance, or in causing such duty or requirement to be performed, such expense may be recovered by the city in an action of debt or assumpsit against such person, corporation or company. And in all cases where the city shall incur any expenses for draining, filling, cleansing or purifying any lot, place or premises, or for removing any unsafe building or structure, or for removing or abating any nuisance found upon any such lot or premises, the council may, in addition to all other remedies provide for the recovery of such expense, charge the same, or such part thereof as they shall deem proper, upon the lot or premises upon or on account of which such expense was incurred, or from which such nuisance was removed or abated, and cause the same to be assessed upon such lot or premises and collected as a special assessment.

(138) **§ 1966 Offensive trades, regulation.** Sec. 5. The council, when they shall deem it necessary, may from time to time assign, by ordinance, certain places within the city for the exercising of any trade or employment offensive to the inhabitants or dangerous to the public health; and may forbid the exercise thereof in places not so assigned and may change or revoke such assignments at pleasure; and whenever a business, carried on in any place so assigned, or in any other place in the city, shall become hurtful and dangerous to the health of the neighborhood, the council may prohibit the further exercise of such business or employment at such place.

(139) **§ 1967 Contagious disease hospitals; exposed persons, regulation.** Sec. 6. The council may purchase the necessary lands, and erect thereon, or otherwise provide one or more hospitals, pest houses or quar-

antine buildings, either within or without the city limits, and provide for the appointment of the necessary officers, attendants or employes, for the care and management thereof, and for the care and treatment therein, of such sick and diseased persons as to the council or board of health of the city shall seem proper; and by direction of the council or board of health, persons having any malignant, infectious or contagious disease, or who have been exposed to such disease, may be removed to such hospital, pest house or quarantine buildings, and there detained and treated, when the public safety may so require; and the council may provide such restraints and punishments as may be necessary to prevent any such person from departing from such hospital, pest house or quarantine grounds until duly discharged.

CHAPTER XIX—MARKETS.

(140) **§ 1988 Council; powers.** Section 1. The council of any city shall have the power to erect market houses, establish and regulate markets and market places for the sale of meats, fish, vegetables and other provisions and articles necessary to the sustenance, convenience and comfort of the inhabitants; to prescribe the time for opening and closing the same; the kind and description of articles which may be sold; and the stands and places to be occupied by the venders.

(141) **§ 1989 Same; rules and regulations.** Sec. 2. The council may adopt and enforce such rules and regulations as may be necessary to prevent fraud, and to preserve order in the markets; and may authorize the immediate seizure, arrest and removal from the market of any person violating its regulations, together with any articles in his or their possession; and may authorize the seizure and destruction of tainted or unsound meats, or other unwholesome provisions exposed for sale therein.

Offensive Trades

[Extracts from Act 328, P. A. 1931.]

(142) Sec. 533. **Slaughter houses within twenty rods of highway—** Any person who shall keep or maintain any slaughter-house, slaughter-yard or slaughter-pen, or any other place for slaughtering or killing any animals, or rendering dead animals as a business, within twenty rods of any public highway within this state, or in any other place except as provided in section six thousand five hundred twenty-one of the compiled laws of nineteen hundred twenty-nine and amendments thereto, shall be guilty of a misdemeanor: Provided, That the provisions of this section shall not apply within the limits of incorporated villages and cities.

(143) Sec. 534. **Adequate water supply, sewerage and drainage—** Any person or his agent who shall keep or maintain in any city or within one mile of the limits of any city or park, or within thirty rods of any highway or street car line, any slaughter-house, slaughter-yard or slaughter-pen or any other place for slaughtering or killing any animals, or for rendering dead animals, unless such place shall be supplied with an adequate supply of water for daily and constant flushing and purifying of the place, and with adequate sewerage and drainage for the speedy removal of all blood and other fluid refuse from such slaughtering, killing or rendering, shall be guilty of a misdemeanor.

Nuisance—Any person or his agent in charge of any slaughter-house, slaughter-yard or slaughter-pen in or within one mile of any city or park, or within thirty rods of any highway or street car line, who shall dispose of any offal, heads, horns, hides or other portions of any dead animals in such manner as to be a nuisance, or contrary to the rules of the local board of health, shall be guilty of a misdemeanor.

See *Ballantine v. Webb*, 84/38, 48.

See Act 266, P. A. 1929 (§ § 6688-6704, C. L. 1929), as amended by Act 260, P. A. 1933.

[Extracts from chap. 35, R. S. 1846.]

(144) **§ 6521 Designated places; records; supervision.** Sec. 46. The township board of every township, the president and trustees, or council, of every village, and the mayor and aldermen of every city, respectively, when they shall judge it necessary, shall, from time to time, assign certain places for the exercising of any trade or employment, offensive to the inhabitants, or dangerous to the public health; and they shall forbid the exercise thereof in places not so assigned; and all such assignments shall be entered in the records of the township, village, or city, and they may be revoked when the said township, village, or city officers may think proper.

(145) **§ 6522 Same; revocation, removal, conditions authorizing.** Sec. 47. When any place or building so assigned shall become a nuisance by reason of offensive smells or exhalations proceeding therefrom, or shall become otherwise hurtful or dangerous to the neighborhood, or to travelers, and the same shall be made to appear on a trial, or the admission of the person exercising such trade or employment, before the circuit court for the county, upon a complaint made by the board of health, or by any other person, the said court may revoke such assignment, and prohibit the further use of such place, or building for the exercise of either of the aforesaid trades or employments, and may cause such nuisance to be removed or prevented.

(146) **§ 6523 Civil damage suit.** Sec. 48. Any person injured, either in his comfort, or the enjoyment of his estate, by any such nuisance, may have an action on the case for the damages sustained thereby, in which action the defendants may plead the general issue, and give any special matter in evidence.

[Extracts from Act 215, P. A. 1895.]

CHAPTER XXI—SEWERS, DRAINS AND WATER COURSES.

(147) **§ 2004 Private drains; requirements; expense lien.** Sec. 12. Whenever the council shall deem it necessary for the public health, they may require the owners and occupants of lots and premises to construct private drains therefrom to connect with some public sewer or drain, and thereby to drain such lots and premises; and to keep such private drains in repair and free from obstruction and nuisance; and if such private drains are not constructed and maintained according to such requirement, the council may cause the work to be done at the expense of such owner or occupant, and the amount of such expense shall be a lien upon the premises drained, and may be collected by special assessment to be levied

thereon in the manner hereinafter provided for the levying and collecting of special assessments.

CHAPTER XXII—STREETS AND PUBLIC GROUNDS.

(148) **§ 2024 Use of highways and streets.** Sec. 14. The council may regulate the use of the public highways, streets, avenues and alleys of the city, subject to the right of travel and passage therein. They shall have authority to prescribe the stands for all vehicles kept for hire, or designate the places where loads of wood, coal, hay and other articles may stand for sale; to regulate traffic and sales in the streets and upon sidewalks; to regulate or prohibit the display, use or placing of signs, advertisements and banners, awning posts and telegraph, telephone or light poles and wires in or over the streets; to prohibit immoderate riding and driving in the streets or over bridges; to regulate or prohibit all such sports, amusements, proceedings and gathering of crowds in the streets as may interfere with the lawful use thereof, or render travel or passage therein inconvenient or unsafe; to prohibit and prevent the running at large of beasts and fowls in the streets or elsewhere in the city, and to impose penalties upon the owners or keepers thereof permitting the same; to cleanse and purify the streets; and to prohibit, prevent, remove and abate all nuisances therein, and to require the authors and maintainers thereof to remove the same and to punish them; and generally to prescribe and enforce all such police regulations over and in respect to the public streets, as may be necessary to secure good order and safety to persons and property in the lawful use thereof; and to promote the general welfare; and in addition to all other powers herein granted, the council shall have the same authority and powers over and in respect to the public streets of the city, as are conferred by law upon highway commissioners in townships.

CHAPTER XIV—PUBLIC HEALTH.

(149) **§ 1968 Council, health powers.** Sec. 7. The council of any city incorporated under this act shall also have and exercise within and for the city, all the powers and authority conferred upon boards of health by chapter forty-six of the compiled laws of eighteen hundred and seventy-one, and all amendments thereto, being chapter thirty-nine of Howell's annotated statutes of the state of Michigan, so far as the same are applicable and consistent with this act; and they may enact such ordinances as may be proper for regulating the proceedings and mode of exercising such powers and authority.

As to powers of council as board of health, see *Rae v. Flint*, 51/526.

(150) **§ 1969 Same; health board, establishment; powers, duties; violation of orders, penalty.** Sec. 8. The council, when deemed necessary, may establish a board of health for the city and appoint the necessary officers thereof, and provide rules for its government, and invest it with such power and authority as may be necessary for the protection and preservation of the health of the city; and in addition thereto the board shall have and exercise all the powers and authority conferred on boards of health by the chapter of the compiled laws referred to in the preceding section, so far as they may be exercised consistently with the provisions of this act. And the council may prescribe penalties for the

violation of any lawful order, rule or regulation made by the board of health, or any officer thereof.

Imprisonment of a woman for violation of city health ordinance is not an imprisonment of female on process in civil action, the prosecution being disposed of according to criminal procedure.—*Stewart v. Hart*, 196/137.

CHAPTER XXV—APPROPRIATION OF PRIVATE PROPERTY.

(151) **§ 2060 Condemnation purposes.** Section 1. Private property may be appropriated for public use in any city for the purpose of opening, widening, altering or extending streets, alleys and avenues; for the construction of bridges, for public buildings and for other public structures, for public grounds, parks, market places and spaces; for public wharves, docks, slips, basins and landings on navigable waters, and for the improvement of water courses; for sewers, drains and ditches; for public hospitals, pest houses, quarantine grounds and public cemeteries, and for other lawful and necessary public uses.

[Extracts from Act 279, P. A. 1909.]

(152) **§ 2230 Mandatory charter provisions.** Sec. 3. Each city charter shall provide:

* * * * *

Public health, safety. (j) For the public peace and health and for the safety of persons and property;

* * * * *

(153) **§ 2232 Permissible charter provisions.** Sec. 4-b. Each city may in its charter provide:

Refund of money advanced; bonds. (1) For refunding money advanced or paid on special assessments imposed, for water main extensions: for borrowing money through its legislature body on the faith and credit of the city, to provide for such refunding from time to time as buildings shall be connected with such water main extensions; and for the issuance of bonds therefor due in not more than thirty years in an amount and at the rate of interest limited by the charter of such city;

Sewers; water-works. (2) For the installation and connection of sewers and waterworks on and to property within the city; for assessing the cost thereof to the several properties and making the same a lien thereon; and for the borrowing of money and issuing bonds in anticipation of the collection of such special assessments;

* * * * *

(154) **§ 2236 Permissible charter provisions.** Sec. 4-f. Each city may in its charter provide:

* * * * *

Sewage disposal system. (4) For the acquiring, establishment, operation, extension and maintenance of sewage disposal systems, sewers and plants, either within or without the corporate limits of such city, as a utility, including the right to acquire property necessary therefor, by purchase, gift or condemnation, and including the fixing and collecting of charges for service covering the cost of such service, the proceeds

whereof shall be exclusively used for the purposes of said sewage disposal system, and which may include a return on the fair value of the property devoted to such service, excluding from such valuations such portions of the system as may have been paid for by special assessment, and which charge may be made a lien upon the property served and if not paid when due, to be collected in the same manner as other city taxes.

(155) **§ 2239 Permissible charter provisions.** Sec. 4-i. Each city may in its charter provide:

* * * * *

(4) For the regulation of trades, occupations and amusements within its boundaries, not inconsistent with state and federal laws, and for the prohibition of such trades, occupations and amusements as are detrimental to the health, morals or welfare of its inhabitants;

Am. 1937, Act 309; 1939, Act 335; 1941, Act 283. This section was also amended by Act 10, P. A. 1941.

(156) **§ 2271 Acquisition of property; condemnation proceedings.** Sec. 35. Any city may acquire by purchase or condemnation proceedings any lands within or without its corporation limits necessary for disposing of sewage or for obtaining or protecting a water supply for the city and the inhabitants thereof, and may acquire by purchase or condemnation proceedings when authorized by the electors of such city any public utility and any water power and water rights for the use of such city within the corporate limits of said city. The jury in condemnation proceedings shall consist of twelve freeholders drawn from the body of the county and if they find the necessity for such use exists and, in case of sewage that the use proposed will not materially injure the health or safety of persons living adjacent to the land, they shall award the compensation to be paid therefor. Other proceedings in such cases shall conform to the general law authorizing cities and villages to take or hold land or property outside of their corporate limit as contained in chapter ninety of the compiled laws of eighteen hundred ninety-seven, or any other appropriate act now or hereafter existing.

Chap. 90, C. L. 1897, above referred to, is § 3784 et seq., C. L. 1929.

Public Convenience Stations

An Act to provide for the establishment of public closets, commonly known and designated as public convenience stations, in all incorporated villages and cities of this state, and in certain unincorporated villages therein.

[Act 285, P. A. 1915.]

The People of the State of Michigan enact:

(157) **§ 2464 Convenience stations; construction, maintenance.** Section 1. It shall be the duty of the common council of any city in this state, and of the board of trustees of any incorporated village, to cause to be constructed and maintained in such village or city not less than one public closet, commonly known and designated as a public convenience station, in such place or places as directed by the local board of health. Such closets or public convenience stations shall have thereon the proper signs and be so placed as directed by the local board of health

as to be easily accessible from the business district or districts of such city or village, and shall be maintained in a sanitary manner under the supervision of the local board of health. Suitable and adequate accommodations shall be afforded at such public convenience station, to the members of both sexes.

(158) **§ 2465 Same; despoiling, penalty.** Sec. 2. Any person destroying, mutilating, injuring, despoiling or abusing the property of any part thereof included within a public convenience station as provided for in this act, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine or not more than fifty dollars, or imprisonment in the county jail for a period of not more than sixty days, or by both such fine and imprisonment in the discretion of the court.

County Public Health Nurses

An Act to authorize the employment of public health nurses by counties.

[Act 7, P. A. 1925.]

The People of the State of Michigan enact:

(159) **§ 6817 County nurse; employment; appropriation.** Section 1. Each county of the state, through its board of supervisors, is hereby authorized and empowered, subject to the provisions of this act, to employ public health nurses, and to appropriate such sums of money at [as] it may deem necessary to hire such nurses and defray their necessary and actual expenses in connection with such employment.

(160) **§ 6818 Same; qualifications.** Sec. 2. No contract for the employment of any person as a public health nurse as herein authorized shall be valid until such nurses before their employment as public health nurses shall be duly registered as required by law and shall furnish to the Michigan department of health satisfactory evidence of having received a course of training of at least four months in public health nursing given under a recognized school, college, or university, or at least eight months' experience in public health nursing work under supervision of an organized staff.

(161) **§ 6819 Same; reports; rules governing; objection to nurse.** Sec. 3. Such nurses will receive the aid and advice of the Michigan department of health in regard to nursing problems and shall make such written reports through the board employing them to the state and local boards of health in such form and at such times as shall be prescribed by the Michigan department of health. All public health nurses employed under the provisions of this act shall be governed by the rules and regulations of the Michigan department of health: Provided, That no person who objects thereto or no minor whose parent or guardian objects thereto, shall be compelled to receive health examination, instruction or treatment.

(162) **§ 6820 Same; directory committee.** Sec. 4. The work of the public health registered nurse may be directed by a local committee of not more than five members, known as the county health nurse committee, composed of the chairman of the county board of supervisors, and four other persons as may be appointed by the board of supervisors, who shall hold office for a term of three years from the date of their appoint-

ment and until their successors shall be appointed and installed into office: Provided, however, That the first committee appointed shall consist of four members, the first two of which shall continue for a period of three years or until their successors in office are appointed and installed, and the second two members shall be appointed for a period of two years, or until their successors in office shall be appointed and installed.

(163) **§ 6821 Penalty.** Sec. 5. Any person employed and serving as a nurse under this act who shall violate any of the provisions thereof shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by a fine not exceeding one hundred dollars or by imprisonment in the county jail not exceeding sixty days, or by both such fine and imprisonment in the discretion of the court.

Township Public Health Nurses

An Act to authorize townships to employ nurses and to provide for their compensation.

[Act 277, P. A. 1921.]

The People of the State of Michigan enact:

(164) **§ 6822 Township nurse; employment; appropriation.** Section 1. The inhabitants of any township shall have the power at any legal meeting, by a vote of the qualified electors thereof, to grant and vote money for the purpose of employing a public nurse or nurses for said township.

(165) **§ 6823 Same; contract; limited powers; duties; misdemeanor, penalty.** Sec. 2. Whenever the qualified electors of any township have voted any money for the employment of a public nurse or nurses for said township, the township board may contract or provide for the services of a public nurse or nurses for such township and shall provide for the payment of such services out of funds voted for that purpose. Said board may employ one or more such nurses who shall devote their whole time to such work, or they may be employed for part time, or for special cases, or said board may in its discretion join with any other township, townships, or municipalities in procuring and paying for the services of a nurse or nurses for the common benefit of such organizations: Provided, That no person employed or appointed under the provisions of this act shall diagnose or attempt to diagnose any case, prescribe or attempt to prescribe drugs or treatment other than ordinary and temporary means, nor use his or her position to promote the business or for the financial gain of any particular physician, surgeon, osteopath, dentist, oculist, optometrist, or any other specialist or practitioner, or in discrimination for or against any particular method or school of healing the practitioners of which are legally practicing in this state in the treatment of human abnormalities: Provided further, That no person who objects thereto or no minor whose parent or guardian objects thereto, shall be compelled to receive medical or physical examination, medical instruction or medical treatment of any nature, nor shall any instruction in sex hygiene and kindred subjects be given by lecturers or otherwise by such nurses in the public schools of this state. Any person employed and

serving as nurses under this act who shall violate any of the provisions thereof shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by a fine not exceeding one hundred dollars or by imprisonment in the county jail not exceeding sixty days, or by both such fine and imprisonment in the discretion of the court.

Sec. 3 declares this act immediately necessary for the preservation of the public peace, health and safety.

Duties of Health Officers

GENERAL DUTIES.

An Act to specify certain duties of health officers and provide for compensation therefor, in townships, cities, and villages where the health officer is not otherwise instructed by the local board of health.

[Act 137, P. A. 1883.]

The People of the State of Michigan enact:

(166) **§ 6541 Isolation of infected persons; health officer, duties, general and preventative.** Section 1. That whenever the health officer of any township, city or village in this state shall receive reliable notice or shall otherwise have good reason to believe that there is within the township, city or village of which he is the health officer, a case of small-pox, diphtheria, scarlet fever or other communicable disease dangerous to the public health, it shall be the duty of said health officer, unless he is or shall have been instructed by the board of health of which he is an executive officer, to do otherwise, immediately to investigate the subject, and in behalf of the board of health of which he is an executive officer, to order the prompt and thorough isolation of those sick or infected with such disease, so long as there is danger of their communicating the disease to other persons; to order the prompt vaccination or isolation of persons who have been exposed to small-pox; to see that no person suffers for lack of nurses or other necessaries because of isolation for the public good; to give public notice of infected places by placard on the premises and otherwise if necessary; to promptly notify teachers or superintendents of schools concerning families in which are contagious diseases; to supervise funerals of persons dead from scarlet fever, diphtheria, small-pox or other communicable disease which endangers the public health; to disinfect rooms, clothing and premises, and all articles likely to be infected, before allowing their use by persons other than those in isolation; to keep the president of his own board of health and the secretary of the state board of health constantly informed respecting every outbreak of a disease dangerous to the public health, and of the facts so far as the same shall come to his knowledge, respecting sources of danger of any such diseased person or infected article being brought into or taken out of the township, city or village of which he is the health officer. It shall be the duty of the health officer to comply with and enforce the rules and regulations and the health laws of the state of Michigan, to make a thorough and complete investigation of all nuisances, sources of sickness, public water supplies and the water supplies of cities, boarding houses, schools, restaurants and other public places; to inspect sewage and garbage disposal systems and to investigate schools, churches, jails,

railroad stations, restaurants, theatres and other places of amusement or entertainment as to their sanitary conditions, and in every possible way to guard and protect the health of the public and to do such work as may be necessary for the improvement of general sanitary and hygienic conditions of the community and to prevent the development of disease.

See sec. 85 (§ 2573, C. L. 1929), Act 167, P. A. 1917, housing law, relative to infected and uninhabitable dwellings. Sec. 9 of the act herein cited (§ 2495, C. L. 1929), empowers the state board of health (state health commissioner) to examine into enforcement of act.

Where a health officer is called upon to determine whether patients are affected with a disease dangerous to public health, he performs services under this section and must look to the township, village or city, and not to the county for his pay.—Browne v. Supervisors, 126/276, 279. It was the intent of the legislature to cast the burden upon the county for extraordinary services rendered to prevent spread of contagious diseases.—St. Johns v. Supervisors, 111/609.

(167) **§ 6542 Health officer; orders, effect; penalty.** Sec. 2. In the absence of regulations conflicting therewith, made and published by the local board of health, and still remaining in force, the provisions of section one of this act shall have the force of regulations made and published by the local board of health; and whoever shall knowingly violate the provisions of section one of this act, or the orders of the health officer made in accordance therewith, shall be deemed guilty of a misdemeanor, and upon conviction thereof he shall be punished by a fine not exceeding one hundred dollars, and the costs of prosecution, or in default of payment thereof, by imprisonment not exceeding ninety days in the county jail, in the discretion of the court.

(168) **§ 6543 Same; compensation.** Sec. 3. In the fulfillment of the requirements of this act the health officer unless other provisions shall have been made in accordance with law, shall be entitled to receive from the township, city or village of which he is health officer, compensation at the rate of not less than three dollars per day while actually engaged in the performance of his duties: Provided. That this section shall not be construed to conflict with any action by the local board of health under section one thousand six hundred ninety-three of the compiled laws of eighteen hundred seventy-one as amended by act two hundred two of the laws of eighteen hundred eighty-one.

Section 1693, referred to in above section, is § 6476, C. L. 1929.

Notice of Violation of Law to Prosecutor

An Act relative to the duties of health officers in [of] cities and villages.

[Act 157, P. A. 1879.]

The People of the State of Michigan enact:

(169) **§ 6544 Notice of violation of law to prosecutor; contents.** Section 1. That it shall be the duty of the health officer of each village and city in this state, whenever he shall know, or have good reason to believe that any penalty or forfeiture has been incurred within his city or village, by reason of neglect to comply with section one thousand seven hundred and thirty-four or section one thousand seven hundred and thirty-five of the compiled laws of eighteen hundred and seventy-one, forthwith to give notice thereof, in writing, to the prosecuting attorney of his county, which notice shall state, as near as may be, the time of such neglect, the

name of the person incurring the penalty or forfeiture, and, as near as can be ascertained, the name or names of persons sick with a disease dangerous to the public health, and not reported as the law requires.

NOTE: Secs. 1734 and 1735, above referred to, are §§ 6517 and 6518, C. L. 1929. See compiler's secs. 198, 199.

Quarantine and Care of Indigents

[Extract from Chap. 35, R. S. 1846.]

(170) **§ 6489 Quarantine; removal of person, provisions for care; indigents, payment by county; fees; district boards of health; cases reported.** Sec. 15. When any person coming from outside the county or residing in any township, city or village within this state shall be infected, or shall lately before have been infected with a dangerous communicable disease, the board of health of the township, city or village where such person may be shall make effectual provision in the manner in which it shall judge best for the safety of the inhabitants and it may remove such sick or infected person to a separate house or hospital if it can be done without danger to his health, and shall thereupon report such case to the supervisor of the ward, or township, in which such infected person shall be, which supervisor shall provide nurses and other assistance and necessaries which shall be at the charge of the person himself, his parents or other persons who may be liable for his support, if able: Provided, If such person, his parents or other person who may be liable for his support, be not able to pay for such assistance and necessaries, the supervisor shall keep an itemized and separate statement of expenses incurred for each and every person cared for under this section and shall render such statement to the board of supervisors of the county or to the board of county auditors in counties having such a board by filing the same with the county clerk: And provided further, That in determining the ability of any person or persons to pay for such assistance or necessities for himself or themselves or a person he or they may be liable to support, the supervisor may in his discretion require that said person or persons make and subscribe an affidavit setting forth that he or they are not the owner or owners of property in excess of the cash value of five hundred dollars and that they have no other means of support than that of their daily labor and such affidavit shall be attached to the statement hereinabove provided for. The said board of supervisors or board of auditors, as the case may be, shall, as soon as may be, proceed to audit the said bill, and if found that the expenses were necessarily incurred, the services actually and necessarily performed and the amounts claimed for such expenses and services are severally just and reasonable under the circumstances, the said board of supervisors or board of auditors, shall allow the same or such parts thereof as the majority of the members-elect of said board shall deem just, and provide for their immediate payment by the said county; and in auditing such accounts said several boards of supervisors, or boards of auditors, shall have full power to examine into the merits of all claims presented to them in accordance with the provisions herein contained, and may subpoena witnesses and take any other measures necessary to arrive at the truth of the same; and the board of supervisors is hereby empowered, if necessary, to borrow money on the

faith and credit of the county to pay all such necessary bills and expenses and to include the same in the next appropriation of money to be raised by taxation in said county: Provided, The board of supervisors of each county, or the board of county auditors in counties having a board of county auditors, shall fix the minimum fee and mileage for medical attendance upon contagious diseases chargeable to the county and shall authorize the superintendents of the poor, upon the application of any board of health of a township, city or village, to contract with a physician or physicians to attend contagious diseases. In counties or districts having a county or district health department, the powers and duties herein granted to or imposed upon local boards of health, except in the case of non-indigent cases in cities having an organized health department with full time health officer, and on supervisors and superintendents of the poor shall be exercised or carried out by said county or district health department. All cases of dangerous communicable diseases except in case of non-indigent cases in the class of cities excepted herein shall be reported by local health officers to the county health department. Said department shall make use of, and cooperate with, such local officials in performing its functions as it deems advisable and shall have jurisdiction over such officials in their control and treatment of cases of dangerous communicable disease.

Am. 1931, Act 13.

Within reasonable bounds health officer's conclusion that a disease is communicable and is a menace to public health, must be conclusive.—*Cedar Creek Twp. v. Wexford Suprs.*, 135/124, 127; *Pierce v. Gladwin Suprs.*, 136/423.

The public welfare requires more prompt and stringent measures to prevent spread of an infectious disease in large cities than are required in rural districts.—*Highland v. Schulte*, 123/360, 363.

Where a hotel was quarantined for smallpox confining therein 13 guests who were treated by the board of health and later furniture in the hotel was destroyed, it was held that when property is used or destroyed under such circumstances compensation should follow.—*Safford v. Detroit Bd. of Health*, 110/81, 82.

Where a health officer has been called in consultation by another physician to determine whether the patient is afflicted with a disease dangerous to the public health, he is not entitled to compensation for such services from the county under this section. When it is determined that the disease is dangerous, then this section applies.—*Browne v. Livingston Suprs.*, 126/276, 279.

The board of health has power and responsibility of providing a pest house and nurses to attend it. The public is primarily responsible for such expenditures and it would be contrary to public policy to endanger the public health by making it impracticable to employ help who would not be sure of their pay. The exigency of pestilence will not wait for the convenience of parties, and measures must be prompt and effectual.—*Elliott v. Kalkaska Suprs.*, 58/452, 453.

County held not liable for expense of vaccination of school children, teachers, and janitors of city within its limits.—*Keho v. Bay Co. Auditors*, 235/163, 165.

Since passage of Acts 7 and 101 of 1903 a village or township is not liable for services performed at the request of its board of health in caring for persons sick with a contagious disease; claimant's remedy being to present his claim properly itemized by the board of health to the board of supervisors for audit and allowance. If board of health refuses to furnish an itemized statement or to certify to a properly itemized statement, mandamus would lie to compel such action.—*Sawyer v. Village of Manton*, 145/272, 273.

The requirement that health board keep and render an itemized and separate account of expenses incurred in caring for each person is mandatory.—*Bishop v. Ottawa Suprs.*, 140/177, 181; *Village of Durand v. Shiawassee Suprs.*, 132/448.

Only in cases of indigent persons could these claims become a county charge.—*Bishop v. Ottawa Suprs.*, 140/177, 181.

(171) **§ 6490 Same; infected persons not able to be removed.** Sec. 16. If any such infected person cannot be removed without danger to his health, the board of health shall make provision for him as directed in the preceding section, in the house in which he may be, and in such case they may cause the persons in the neighborhood to be removed, and may take such other measures as they may deem necessary for the safety of the inhabitants.

Elliott v. Kalkaska Suprs., 58/452, 454; *St. Johns v. Clinton Suprs.*, 111/609, 613; *Highland v. Schulte*, 123/360, 362.

(172) **§ 6491 Travelers from infected districts, restraint by board; penalty.** Sec. 17. The board of health of any township near to, or bordering upon either of the neighboring states, may appoint, by writing under their hands, suitable persons to attend any places by which travelers may pass from infected places in other states; and the persons so appointed may examine such passengers as they may suspect of bringing with them any infection which may be dangerous to the public health, and if need be, may restrain them from traveling until licensed thereto by the board of health of the township to which such persons may come; and any person coming from such infected place, who shall without license as aforesaid, travel within this state, unless it be to travel by the most direct way to the state from whence he came, after he shall be cautioned to depart by the persons appointed as aforesaid, shall forfeit a sum not exceeding one hundred dollars.

(173) **§ 6492 Infected persons; warrant for removal and care.** Sec. 18. Any two justices of the peace may, if need be, make out a warrant under their hands, directed to the sheriff, or any constable of the county, requiring him, under the direction of the board of health, to remove any person infected with contagious sickness, or to take possession of convenient houses and lodgings, and to provide nurses, attendants, and other necessaries, for the accommodation, safety, and relief of the sick.

(174) **§ 6493 Control of infected goods; issuance of warrant.** Sec. 19. Whenever, on the application of the board of health, it shall be made to appear to any justice of the peace that there is just cause to suspect that any baggage, clothing, or goods of any kind found within the township, are infected with any disease which may be dangerous to the public health, such justice of the peace shall, by warrant under his hand, directed to the sheriff, or any constable of the county, require him to take with him as many men as the said justice shall deem necessary to secure such baggage, clothing, or other goods, and to post said men as a guard over the house, or place where such baggage, clothing, or other goods shall be lodged, which guard shall take effectual care to prevent any person removing, or coming near to such baggage, clothing, or other goods, until due inquiry be made into the circumstances thereof.

(175) **§ 6494 Same; storage in impressed houses.** Sec. 20. The said justice may also, by the same warrant, if it shall appear to him necessary, require the said officer, under the direction of the board of health, to impress and take up convenient houses or stores, for the safe keeping of such baggage, clothing, or other goods; and the board of health may cause them to be removed to such houses or stores, or to be otherwise detained until they shall, in the opinion of said board of health, be freed from infection.

(176) **§ 6495 Same; execution of warrant.** Sec. 21. Such officer, in the execution of such warrant, shall, if need be, break open any house, shop, or any other place mentioned in said warrant, where such baggage, clothing, or other goods shall be; and he may require such aid as shall be necessary to effect the execution of the warrant; and all persons shall, at the command of any such officer, under a penalty not exceeding ten dollars, assist in the execution of the warrant, if able to do so.

(177) **§ 6496 Same; owner to pay charges.** Sec. 22. The charges of securing such baggage, clothing, or other goods, and of transporting and

purifying the same, shall be paid by the owner or owners thereof, at such rates and prices as shall be determined by the board of health.

(178) **§ 6497 Rental, nurse hire, necessities; county to pay.** Sec. 23. Whenever the sheriff or other officer shall take possession of any houses, stores, lodgings, or other necessities, or shall employ any nurse or attendants, as provided in this chapter, the several parties interested shall be entitled to a just compensation therefor, to be paid by the county in which such persons or property shall have been so employed or taken possession of.

(179) **§ 6498 Infected persons in jails; removal and care, return on recovery.** Sec. 24. Whenever any person confined in any common jail shall be attacked with any disease, which, in the opinion of the physician of the board of health, or of such other physicians as they may consult, shall be considered dangerous to the safety and health of the other prisoners, or of the inhabitants of the township, the board of health shall, by their order in writing, direct the removal of such person to some hospital or other place of safety, there to be provided for and securely kept, so as to prevent his escape, until their further orders; and if such prisoner shall recover from the disease, he shall be returned to such jail.

(180) **§ 6499 Same; order for removal, filing; act not deemed an escape.** Sec. 25. If the person so removed shall have been committed by order of any court, or under any judicial process, the order for his removal, or a copy thereof, attested by the presiding member of said board of health, shall be returned by him, with the doings thereon, into the office of the clerk of the circuit court for the county; and no prisoner, removed as aforesaid, shall be considered as thereby having committed an escape.

(181) **§ 6500 Infected persons in poor houses; removal and care.** Sec. 26. Whenever any pestilence or contagious disease shall break out in any county poor house in this state, or in the vicinity thereof, and the physician to such county poor house, or such other physician as the superintendents may consult, shall certify that such pestilence or disease is likely to endanger the health of the persons supported at such poor house, the superintendents of such county poor house shall cause the persons there supported, or any of them, to be removed to some other suitable place in the same county, and there to be maintained and provided for at the expense of the county, with all necessary medical attendance and care, until they can safely be returned to such poor house, or otherwise discharged.

QUARANTINE.

(182) **§ 6501 Quarantine ground; single township.** Sec. 27. Any township may establish a quarantine ground in any suitable place, either within or without its own limits: Provided, That if such place shall be without its limits, the assent of the township within whose limits it may be established shall be first obtained therefor.

The provisions of a city charter authorizing council to establish a hospital for contagious diseases beyond limits of the city does not authorize city to bring patients infected with dangerous communicable diseases within township without first obtaining consent from proper township officers.—Summit Twp. v. City of Jackson, 154/37, 40.

(183) **§ 6502 Same; two or more townships.** Sec. 28. Any two or more townships may, at their joint expense, establish a quarantine ground

for their joint use, either within or without their own limits: Provided, That if such place shall be without their limits, they shall first obtain the assent of the township within whose limits the same may be.

CITED: *Summit Twp. v. City of Jackson*, 154/37, 40.

(184) **§ 6503 Quarantine of vessels; regulations.** Sec. 29. The board of health in each township in this state bordering upon Lake Michigan, Lake Superior, Lake Huron, Lake St. Clair, or Lake Erie, or upon any of the principal rivers or straits connecting together any of the said lakes, or bordering upon any navigable waters uniting with any of the said lakes, rivers or straits, may from time to time establish the quarantine to be performed by all vessels arriving within the limits of such townships, and may make such quarantine regulations as they shall judge necessary for the health and safety of the inhabitants.

(185) **§ 6504 Same; extent.** Sec. 30. The quarantine regulations so established shall extend to all persons, and all goods and effects, arriving in such vessels, and to all persons who may visit or go on board of the same.

(186) **§ 6505 Same; penalty for violation.** Sec. 31. The said quarantine regulations, after notice shall have been given in the manner before provided in this chapter, shall be observed and complied with by all persons; and any person who shall violate any such regulations, shall forfeit a sum not less than five dollars and not more than five hundred dollars.

(187) **§ 6506 Same; removal to quarantine ground; fumigation; removal of persons on board to hospital; expenses.** Sec. 32. The board of health in each township bordering upon any of the lakes, rivers, straits, or other navigable waters hereinbefore mentioned, may at all times cause any vessel arriving within the limits of the township, when such vessel or the cargo thereof shall, in their opinion, be foul or infected, so as to endanger the public health, to be removed to the quarantine ground, and to be thoroughly purified, at the expense of the owners, consignees, or persons in possession of the same; and they may also cause all persons arriving in, or going on board of such infected vessel, or handling such infected cargo, to be removed to any hospital under the care of the said board of health, there to remain under their orders.

(188) **§ 6507 Same; persons on board, failure to answer questions; penalty.** Sec. 33. If any master, seaman, or passenger, belonging to any vessel, on board of which any infection may then be, or may have lately been, or which may have been at, or which may have come from any port or place where any infectious disease prevails, that may endanger the public health, shall refuse to answer on oath, to be administered by any member of such board, such questions as may be asked him, relating to such infection or disease, by any member of the board of health of the township to which such vessel may come, such master, seaman, or passenger, so refusing, shall forfeit a sum not exceeding two hundred dollars; and in case he shall not pay such sum, he shall suffer six months' imprisonment.

(189) **§ 6508 Same; owner to pay expenses.** Sec. 34. All expenses incurred on account of any person, vessel or goods, under any quarantine regulations, shall be paid by such person, or by the owner of such vessel or goods respectively.

SMALL POX AND OTHER DANGEROUS DISEASES.

(190) **§ 6509 Township communicable disease hospitals.** Sec. 35. The inhabitants of any township may establish within their township, and be constantly provided with, one or more hospitals for the reception of persons having the small pox, or other disease which may be dangerous to the public health.

(191) **§ 6510 Same; rules; consent of adjoining township.** Sec. 36. All such hospitals shall be subject to the orders and regulations of the board of health, or a committee appointed by such board for that purpose; but no such hospital shall be established within one hundred rods of any inhabited dwelling house situated in an adjoining township, without the consent of such adjoining township.

(192) **§ 6511 Unlawful inoculation; penalty.** Sec. 37. If any person shall inoculate any other person, or inoculate himself, or suffer himself to be inoculated with the small pox, unless at some hospital licensed and authorized by law, he shall, for each offense, forfeit a sum not exceeding two hundred dollars.

(193) **§ 6512 Communicable disease hospital; persons and property, rules.** Sec. 38. When any hospital shall be so established, the physician attending the same, the persons inoculated or sick therein, the nurses, attendants, and all persons who shall approach or come within the limits of the same, and all such furniture and other articles as shall be used or brought there, shall be subject to such regulations as shall be made by the board of health, or of the committee appointed for that purpose.

(194) **§ 6513 Communicable disease outbreak; board to provide hospital; rules.** Sec. 39. When the small pox, or any other disease dangerous to the public health, shall break out in any township, the board of health shall immediately provide such hospital, or place of reception for the sick and infected, as they shall judge best for their accommodation, and the safety of the inhabitants; and such hospitals and places of reception shall be subject to the regulations of the board of health, in the same manner as hereinbefore provided for established hospitals.

(195) **§ 6514 Same; removal and care of sick persons; rules.** Sec. 40. The board of health shall cause such sick or infected persons to be removed to such hospitals or places of reception, unless the condition of the sick person be such as not to admit of removal without danger of life; in which case the house or place where the sick shall remain, shall be considered as a hospital to every purpose before mentioned, and all persons residing in, or in any way concerned with the same, shall be subject to the regulations of the board of health, as before provided.

(196) **§ 6515 Spread of disease; prevention, public notice.** Sec. 41. When the small pox, or any other disease dangerous to the public health, is found to exist in any township, the board of health shall use all possible care to prevent the spreading of the infection, and to give public notice of infected places to travelers, by such means as in their judgment shall be most effectual for the common safety.

(197) **§ 6516 Penalty.** Sec. 42. If any physician or other person, in any of the hospitals or places of reception before mentioned, or who shall attend, approach, or be concerned with the same, shall violate any of the regulations lawfully made in relation thereto, either with respect to himself, or his, or any other person's property, the person so offending

shall, for each offense, forfeit a sum not less than ten, nor more than one hundred dollars.

(198) **§ 6517 Householders; notice of disease, contents; penalty.** Sec. 43. Whenever any householder, hotel keeper, keeper of a boarding house, or tenant, shall know, or shall be informed by a physician, or shall have reason to believe that any person in his family, hotel, boarding house or premises, is taken sick with small-pox, cholera, diphtheria, scarlet fever, or any other disease dangerous to the public health, he shall immediately give notice, in writing, thereof to the health officer of the township, city or village in which he resides. Said notice shall state the name of the person sick, the name of the disease, if known, the name of the householder, hotel keeper, keeper of boarding house or tenant giving the notice, and shall, by street and number, or otherwise, sufficiently designate the house in which he resides or the room in which the sick person may be; and if he shall refuse or wilfully neglect immediately to give such notice, he shall be deemed guilty of a misdemeanor, and upon conviction thereof he shall be punished by a fine of not exceeding one hundred dollars and costs of prosecution; or in default of payment thereof, by imprisonment not exceeding ninety days in the county jail, in the discretion of the court: Provided, That such fine or imprisonment shall not be enforced if the physician in attendance has given to the health officer or other officer hereinbefore mentioned an immediate notice of said sick person and true name of the disease, in accordance with the requirements of this section.

(199) **§ 6518 Physician; notice of disease, contents; penalty.** Sec. 44. Whenever any physician shall know that any person whom he is called to visit, or who is brought to him for examination, is infected with smallpox, cholera, diphtheria, scarlet fever, or any other disease dangerous to the public health, he shall immediately give notice thereof to the health officer of the township, city or village in which the sick person may be; and to the householder, hotel keeper, keeper of a boarding house, or tenant within whose house or rooms the sick person may be. The notice to the officer of the board of health shall state the name of the disease, the name, age and sex of the person sick, also the name of the physician giving the notice; and shall, by street and number, or otherwise, sufficiently designate the house or room in which such person sick may be. And every physician and person acting as a physician, who shall refuse or neglect immediately to give such notice, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine not less than ten dollars nor more than fifty dollars, or by imprisonment in the county jail not exceeding thirty days in default of the payment of such fine: Provided, That this penalty shall not be enforced against a physician, if another physician in attendance has given to the health officer or other officer hereinbefore mentioned, an immediate notice of said sick person, and the true name of the disease in accordance with the requirement of this section.

This statute covers consumption if such disease is dangerous to the public health.—People v. Shurly, 131/177, 178.

DIPHTHERIA: Supreme court may take judicial notice that diphtheria is an infectious communicable disease.—Janssen v. Mulder, 232/183.

(200) **§ 6519 Same; notice fee.** Sec. 50. For each complete notice in writing to an officer of the board of health, in full compliance with the preceding section, requiring from physicians, or other person, notices

of diseases dangerous to the public health, the physician who gave the notice shall be entitled, on duly certifying that each notice was correct, and when the bill has been duly audited by the board of health, to receive from the township, city, or village, in which the notice was given, the sum of ten cents.

(201) **§ 6520 Inoculation; expense.** Sec. 45. Every township may, at any meeting, make suitable provision for the inoculation of the inhabitants thereof with the cow pox, under the direction of the board of health, or the health officer of the township, and they shall raise all necessary sums of money to defray the expenses of such inoculation, in the same manner that other township charges are defrayed.

Transportation of Infected Persons or Articles

[Extract from Act 328, P. A. 1931.]

(202) Sec. 473. **Transportation of persons or articles infected with communicable diseases dangerous to the public health**—No person sick with cholera, smallpox, diphtheria, scarlet fever or any other communicable disease, dangerous to the public health, and no article which has been infected or is liable to propagate or convey any such disease, shall come or be brought into any township, city or village in Michigan, without the special permit of the board of health or the health officer of said township, city or village, and then only under the supervision of the health officer of said township, city or village: Provided, however, That any county may construct and maintain hospitals, sanatoria, or other institutions for the treatment of persons suffering from contagious or infectious diseases in any township in said county and may transport persons and property to and from such hospitals, sanatoria, or other institutions by and under the supervision of the regularly constituted county health department or county health officer, or other public authority having control thereof, without the consent or special permit of the board of health or the health officer of any township within said county.

Any person who shall violate the provisions of this section, or the order of the health officer made in pursuance thereof, shall be guilty of a misdemeanor.

This section supersedes Act 45, P. A. 1895 (§ § 6613-14, C. L. 1929) which was repealed by Act 328, P. A. 1931.

A city has no authority to bring patients infected with dangerous communicable diseases within a township, where it has a hospital, without first obtaining consent therefor from the proper officers of the township.—Summit Twp. v. Jackson City, 154/37.

Free Vaccination

An Act to authorize boards of health of cities, villages and townships to furnish vaccination to the inhabitants thereof.

[Act 146, P. A. 1879.]

The People of the State of Michigan enact:

(203) **§ 6617 Vaccination; public expense.** Section 1. That the board of health of each city, village and township, may at any time direct its health officer or health physician to offer vaccination or inoculation,

with bovine vaccine virus, anti-toxine and anti-typhoid-vaccine to every child and to all other persons, without cost to the person vaccinated or inoculated, but at the expense of such city, village or township, as the case may be.

Expulsion of unvaccinated children from school, see *People ex rel. Hill v. Lansing Bd. of Ed.*, 224-388.

Court may not look to general statute dealing with communicable disease to fix liability for free vaccination services. *Keho v. Bay Auditors*, 235-163. County held not liable for expense of vaccination of school children, teachers, and janitors of city within its limits.—*Keho v. Bay Auditors, supra*.

Local board of health may prescribe scarification method of vaccination for smallpox as condition to school attendance.—Op. Atty. Gen., April 7, 1939.

Privy Nuisance

An Act to enlarge the powers of boards of health of townships and villages in certain cases.

[Act 136, P. A. 1881.]

The People of the State of Michigan enact:

(204) **§ 6675 Privies; rules of local board; abatement of nuisance.** Section 1. That boards of health in townships and villages are hereby empowered to make such rules and regulations in relation to the care and cleansing of privies and water-closets within such townships or villages as they may deem desirable for the preservation of the health of any of the inhabitants thereof, or such boards may declare any such privy or water-closet a nuisance, and the abatement thereof be by them ordered and enforced.

See Act 273, P. A. 1939, compiler's sections 86-89.

(205) **§ 6676 Penalty.** Sec. 2. Any violation of any rule or requirement of such board under this act shall be deemed to be a misdemeanor, and shall be punished by a fine not more than ten dollars or imprisonment in the county jail not more than ten days, or both such fine and imprisonment, in the discretion of the court.

Artesian Well Nuisance

An Act to regulate the use of artesian and other wells; to prevent the waste of waters therefrom, and provide a remedy therefor.

[Act 107, P. A. 1905.]

The People of the State of Michigan enact:

(206) **§ 8930 Artesian or flowing well; certain condition deemed nuisance, abatement, damages.** Section 1. Any artesian or flowing well, the water of which is unnecessarily allowed to run to waste in an unreasonable manner to the depletion or lowering of the head or reservoir thereof to the detriment or damage of other wells supplied from the same head or reservoir, shall be deemed a nuisance, and its owner and the owner of the land on which it is situated shall be subject to all the actions for abatement and damages in favor of the person or persons injured that are or may be provided by law for other nuisances or tortious acts.

(207) **§ 8931 Same; unreasonable or unnecessary use deemed nuisance; abatement, damages.** Sec. 2. Where any well is supplied by a head, reservoir, stratum, or vein or by percolating waters common to other springs or wells, and the owner thereof or his lessee or licensee puts its waters to a use unreasonable or unnecessary, in view of the condition and situation of the land on which it is situated, and through such unreasonable or unnecessary use, lowers or depletes the head, pressure, or supply of water of any spring or well dependent on the same head, vein, or stratum, to the detriment or injury of the owner or any person entitled to the use thereof, the well so unreasonably and unnecessarily used, shall be deemed to be a nuisance, and its owner and the owner of the land on which it is situated shall be subject to all the actions for abatement and damages in favor of the person or persons injured, that are or may be provided by law for other nuisances or tortious acts.

(208) **§ 8932 Decree; contents, reopening.** Sec. 3. Where any decree is rendered under this act declaring any well a nuisance because of the waste or unreasonable use of its waters and directing the abatement thereof, such decree shall specify in some practicable manner the daily amount or volume of water that may be used or allowed to flow therefrom without violating such decree, and specify such reasonable time as to the court shall seem just within which the provisions thereof shall be carried into effect: Provided, That any such decree may be reopened at any time after entry on the question of reasonable use on a proper showing of change of circumstances or other equitable reason therefor.

Private Nuisances

[Extract from Chapter 20 of the Judicature Act of 1915.]

(209) **§ 14493 Abatement of private nuisance; judgment.** Sec. 43. In actions on the case for a private nuisance, when the plaintiff prevails, he shall, in addition to the usual judgment for damages and costs, also have judgment that the nuisance be abated and removed, unless the judge holding the circuit court at which any issue of fact joined therein shall be tried shall certify in the minutes of such trial that the abatement thereof is unnecessary.

(210) **§ 14494 Same; execution and warrant.** Sec. 44. In case of a judgment that the nuisance be abated and removed, the plaintiff shall have execution in the common form for his damages and costs, and a separate warrant to the proper officer, requiring him to abate and remove the nuisance, at the expense of the defendant, in like manner as public and common nuisances are abated and removed.

(211) **§ 14495 Same; stay of warrant.** Sec. 45. The court may, on the application of the defendant, order a stay of such warrant for such time as may be necessary, not exceeding six months, to give him an opportunity to remove the nuisance, upon his giving satisfactory security to do so within the time specified in the order. •

(212) **§ 14496 Same; expense.** Sec. 46. The expense of abating and removing the nuisance pursuant to such warrant, shall be collected by the officer in the same manner as damages and costs are collected upon execution, excepting that the materials of any buildings, fences, or other

things that may be removed as a nuisance, may be sold by the officer, in like manner as goods are sold on execution for the payment of debts; and the officer may apply the proceeds of such sale to defray the expenses of the removal, and shall pay over the balance thereof, if any, to the defendant upon demand: and if the proceeds of the sale are not sufficient to defray the said expenses, he shall collect the residue thereof as before provided.

Burial of Dead Animals

[Extract from Act 328, P. A. 1931.]

(213) Sec. 57. **Burial of dead animals**—Any person or persons who shall put any dead animal or part of the carcass of any dead animal, into any lake, river, creek, pond, road, street, alley, lane, lot, field, meadow or common, or in any place within one mile of the residence of any person or persons, except the same and every part thereof be buried at least four feet under ground, and the owner or owners thereof who shall knowingly permit the same to remain in any of the aforesaid places, to the injury of the health, or to the annoyance of the citizens of this state, or any of them, shall be guilty of a misdemeanor: and every twenty-four hours said owner may permit the same to remain after such conviction, shall be deemed an additional offense against the provisions of this section, a misdemeanor, punishable by a fine of not less than fifty dollars nor more than one hundred dollars, or by imprisonment of not less than thirty days nor more than ninety days.

This section supersedes Act 70, S. L. 1867 (§ 5306, C. L. 1929) which was repealed by Act 328, P. A. 1931.

Rabies

An Act in relation to the disease of rabies among dogs, to provide for the treatment of persons infected with the virus of rabies, and for the payment of certain damages for domestic animals infected with rabies by dogs and to provide penalties for the violation of this act.

[Act 306, P. A. 1909.]

The People of the State of Michigan enact:

(214) **§ 6622 Rabid dog, quarantine; complaint by township board.** Section 1. It is hereby made the duty of all township boards of health to whom cases of rabies among dogs are reported to immediately investigate the same by some member or members of the board; and should such investigation show a reasonable probability that a dog is affected with the disease known as rabies, the said board of health shall immediately establish such temporary quarantine as may be necessary to prevent the spread of the disease and to make immediate complaint thereof in the manner provided in section four hereof.

(215) **§ 6623 Muzzling or confinement of dogs; order.** Sec. 2. The said board of health, when in its judgment such action is necessary to prevent the spread of the disease, shall have power to order all dogs in the township or any part thereof, restrained, confined or muzzled.

(216) **§ 6624 Same; notice of order.** Sec. 3. The order of the board of health to restrain, confine or muzzle dogs shall be operative when a copy of such order shall have been left at the usual place of residence of the owner or owners of dogs that are believed to have been exposed to the said disease, or when a copy of said order has been posted in three of the most public places in the township or part thereof to which said order applies.

(217) **§ 6625 Complaint to justice; hearing, notice; order.** Sec. 4. Any member of the board of health or any resident of the township may make complaint to any justice of the peace of said township when any dog within the township is rabid, or has been bitten by or been fighting with a dog that is rabid, or had been running at large in violation of the order of the board of health. Upon such complaint it shall be the duty of the said justice of the peace to give notice to the owner of such dog or dogs to appear forthwith for the hearing of said complaint. Upon such hearing, if the said justice shall be satisfied that the said dog is rabid, has been bitten by or been fighting with a dog that is rabid, or has been running at large in violation of the said order of the board of health, he shall be authorized to make an order that such dog or dogs be killed: Provided, That the said justice, in his discretion, in all cases in which it does not appear at the hearing that the dog or dogs in question are rabid, may order the said dog or dogs restrained for a period of at least ninety days: Provided further, That in all cases in which the owner of the dog complained against cannot be ascertained, the justice may immediately order the said dog to be killed.

(218) **§ 6626 Order to kill; fee.** Sec. 5. In all cases in which a dog is ordered killed the justice shall issue an order to any constable of the township directing him to forthwith kill and bury the said dog, for which service the constable shall receive a fee of one dollar to be paid by the township out of its general fund in the manner that other constable fees are paid.

(219) **§ 6627 Pasteur treatment; county chargeable; domestic animal loss.** Sec. 6. Whenever it shall satisfactorily appear to the local board of health that any person within its jurisdiction has been bitten by a rabid dog; or in any other manner has been infected with the virus of rabies, said local board of health shall make the necessary arrangements for Pasteur treatment. The necessary expense thus incurred, not to exceed in any one case the sum of two hundred dollars, shall be a charge upon the county in which the expense was authorized and all bills for such expense shall be audited and allowed by the board of supervisors of the county and payable out of the general fund of the county to the person or persons or institution incurring the said expense. Whenever any rabid dog shall infect any domestic animal with rabies, and said animal shall die therefrom or be ordered killed on account thereof, the owner of said animal shall be reimbursed for the said loss in the manner and out of the fund provided by act number three hundred thirty-nine of the public acts of nineteen hundred nineteen and the amendments thereto: Provided, That when any domestic animal shall be infected with rabies by a dog belonging to the owner of said domestic animal, and said animal shall die from said infection or be ordered killed on account thereof, then the owner of said domestic animal shall in no case be reimbursed for said loss, as herein provided.

(220) **§ 6628 Penalty; officers.** Sec. 7. Any officer refusing or neglecting to perform any of the duties imposed upon him by any of the provisions of this act shall be deemed guilty of a misdemeanor and subject to the penalties prescribed by law in such cases.

(221) **§ 6629 Same; other persons.** Sec. 8. Any person violating any of the provisions of this act, or of a quarantine or regulation or order to restrain, confine or muzzle dogs, duly established or issued by the board of health as provided in this act, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be subject to a fine of not less than ten dollars nor more than one hundred dollars, or to imprisonment in the county jail for a period of not less than ten days nor more than thirty days, or both such fine and imprisonment in the discretion of the court.

Prevention of Rabies in Indigent Persons

An Act to provide for the prevention of rabies in indigent persons.

[Act 116, P. A. 1908.]

The People of the State of Michigan enact:

(222) **§ 6630 Poor persons; treatment, expenses.** Section 1. Whenever it shall be proved to the satisfaction of the local board of health that any indigent person or persons within its jurisdiction has been bitten by a rabid dog, or other rabid animal, or in any other manner has been infected with the virus of rabies, said local board of health shall make the necessary arrangements and send said person or persons supposed to be infected with rabies, to the Pasteur Institute at the University of Michigan. The necessary expenses thus incurred shall be a charge upon the township, city or incorporated village in which the expense was authorized. Before their payment or allowance all bills for such expenses shall be audited by the local board of health.

Diseases Among Cattle

[Extract from Act 181, P. A. 1919.]

(223) **§ 5173 Domestic animals affected with disease; report; duty of local health boards, quarantine; expense.** Sec. 5. It shall be the duty of any person who discovers, suspects, or has reason to believe that any domestic animal belonging to him or in his charge, or that may come under his observation, belonging to other parties, is affected with any disease, whether it be a contagious or infectious disease, to immediately report such fact, belief, or suspicion to the state commissioner of animal industry, or to the local board of health or some member thereof. It is hereby made the duty of all local boards of health, to whom cases of contagious or infectious diseases are reported, to immediately investigate the same, either in person by some member or members of the board, or by the employment of a competent and skilled veterinarian; and should such investigation show a reasonable probability that a domestic animal is affected with a contagious or infectious disease of a malignant char-

acter, the local board of health shall immediately establish such temporary quarantine as may be necessary to prevent the spread of the disease, and report all action taken to the state commissioner of animal industry; and the acts of local boards of health establishing temporary quarantine shall have the same force and effect as though established by the commissioner, until such time as the commissioner may take charge of the case or cases, and relieve the local board of health. All expenses incurred by local boards of health in carrying out the provisions of this act shall be paid in like manner as are other expenses incurred by said boards in the discharge of other official duties.

One cannot sell horse if he has good reason to believe it is suffering from incurable disease, and take his chance on any person being injured.—*Weinberg v. Ladd*, 199/164, 167.

Medical Milk Commissions

An Act providing for the incorporation of medical milk commissions, and certification of milk produced under their supervision.

[Act 248, P. A. 1911.]

The People of the State of Michigan enact:

(224) **§ 6555 Medical milk commission; members, appointment, powers, term, removal, certificate.** Section 1. Authority is hereby given the board of health of any city, village or township in this state, so constituted as to have in its membership two or more physicians duly authorized to practice medicine under the laws of this state, to appoint five physicians duly authorized to practice medicine under the laws of this state a medical milk commission for the purpose of supervising the production, transportation and delivery of milk, which it is intended to use for infant feeding, sick-room clinical purposes in said city, village or township. In cities, villages or townships not having a board of health so constituted as above stated, the state board of health may make such appointment. All members of such milk commission shall have and possess all the powers and immunities provided by this act or any other act relating to the appointees of such board of health, while performing their duties as such appointees. One member of such commission shall be appointed and hold office from the time of such appointment until the end of the thirty-first of December, nineteen hundred eleven, one shall be appointed and hold office until the end of the thirty-first of December nineteen hundred twelve, one shall be appointed and hold office until the end of the thirty-first of December nineteen hundred thirteen, and one shall be appointed and hold office until the end of the thirty-first of December, nineteen hundred fourteen, one shall be appointed and hold office until the end of the thirty-first of December, nineteen hundred fifteen, and until their several successors are appointed and qualified. The term of office of each member of the commission, after the termination of the aforesaid terms shall be five years, and on the expiration of any term a new appointment shall be made in the same manner above prescribed. No more than one milk commission shall be appointed for any one city, village or township. Any and all members of such commission may be removed at any time by the board which appointed them. Such medical

milk commission shall make and file a certificate in writing in the manner hereinafter mentioned.

(225) **§ 6556 Certificates; contents.** Sec. 2. Such certificates shall set forth:

The name of such association, which shall be as hereinafter designated; The purpose for which the association shall be formed;

The names and residences of the medical directors who shall manage the affairs of the association for the first year of its existence;

The city, village or township in this state where such association shall operate.

(226) **§ 6557 Same; execution; filing; evidence.** Sec. 3. Such certificate shall be executed in triplicate and acknowledged before some person within this state authorized to take the acknowledgment of deeds, and one copy thereof shall be filed in the office of the clerk of the county where the purposes of such association are to be carried out and one copy shall be filed in the office of the secretary of state; said certificate or copy thereof duly certified by the said clerk or secretary of state shall be evidence in all courts or places.

(227) **§ 6558 Name of commission.** Sec. 4. The name of such association shall be "The Medical Milk Commission of the [stating whether city, village or township] of [designating the name of city, village or township] [designating the name of county] County of Michigan."

(228) **§ 6559 By-laws; agents, duties.** Sec. 5. Such medical directors shall have the power from time to time to make, alter and amend by-laws not inconsistent with the constitution and laws of the United States and of this state, and to appoint such agents and officers as shall in their judgment tend to promote or advance any purpose or purposes of such commission, and to prescribe their respective duties; and for the regulating of the conditions under which milk shall be produced by any dairyman or dairymen under contract with such commission.

(229) **§ 6560 Receipt of compensation; penalty.** Sec. 6. No medical director of any association organized under this act shall receive, directly or indirectly, from such association or dairyman or dairymen producing milk under agreement with such commission, any salary or emolument or any compensation of any kind or character for any services rendered under the provisions of this act, and any medical director who shall receive any salary, emolument or any compensation of any kind or character for such services, shall be liable to a penalty of one hundred dollars to be recovered in an action of debt by the association of which he is a member, and in addition thereto shall be removed from his office as a member of said association, and thereafter disqualified from becoming a member of any association incorporated under the provisions of this act.

(230) **§ 6561 Production agreement, contents.** Sec. 7. Every such association shall have the power to enter into agreement in writing with any dairyman or dairymen for the production of milk under the supervision of such association for the purposes enumerated in section one hereof, and to prescribe in such agreement the conditions under which such milk shall be produced, which conditions however, shall not be below the standards of purity and quality for certified milk as fixed by the American association of medical milk commissions, and the standards

for milk now fixed or that may hereafter be fixed by the board of health of the state of Michigan. In any contract entered into by any such commission with any dairyman or dairymen, it may be provided that such medical milk commission may designate any analysts, chemists, bacteriologists, veterinarians, medical inspectors or other persons who in its judgment may be necessary for the proper carrying out of the purposes of such commission for employment by such dairyman or dairymen, and to prescribe and define their powers and duties, and that such persons so employed by such dairyman or dairymen may be discharged from employment whenever such medical milk commission may request such discharge or removal in writing.

(231) **§ 6562 Seals, statement.** Sec. 8. All containers of any kind or character used in the carrying or distribution of milk produced by any dairyman or dairymen under contract with any medical milk commission shall have attached thereto or placed thereon a certificate or seal bearing the name of the medical milk commission with which such dairyman or dairymen producing such milk shall be under contract, which certificate shall have printed, stamped or written thereon the day or date of the production of the milk contained in any such container and the words "certified milk" in plain and legible form.

(232) **§ 6563 State investigation; ex-officio membership.** Sec. 9. The work and methods of any milk commission organized under this act and of the dairies of which milk is produced under contract with any such commission, shall at all times be subject to investigation and scrutiny by the local board of health and the board of health of the state of Michigan. The secretary of said state board of health and the local health officer shall be ex-officio members of every milk commission organized under this act.

(233) **§ 6564 Certified milk standard.** Sec. 10. No person, firm or corporation shall sell or exchange or offer or expose for sale or exchange in any city, village or township as and for certified milk, any milk which is not certified by the medical milk commission of that city, village or township, and which is not produced in conformity with the methods and regulations for the production of certified milk from time to time adopted by the American association of medical milk commissions, and which is below the standards of purity and quality for certified milk as fixed by the American association of medical milk commissions.

(234) **§ 6565 Penalty.** Sec. 11. Whoever shall by himself, servant or agent sell, exchange or deliver or have in his custody with intent to sell, exchange or deliver, or offer or expose for sale in any city, village or township as certified milk, any milk which has not been certified by the medical milk commission of that city, village or township, or shall violate any of the provisions of this act, shall upon conviction thereof be deemed guilty of a misdemeanor, and shall be punished by a fine of not less than fifty dollars nor more than five hundred dollars, or by imprisonment in the county jail not more than ninety days, or by both such fine and imprisonment in the discretion of the court.

Sec. 12 repeals all inconsistent acts, or parts of acts.

Sale of Real Estate by Boards of Health

An Act to authorize boards of health to dispose of real estate.

[Act 215, S. L. 1861.]

The People of the State of Michigan enact:

(235) **§ 6567 Fee in board, sale; cemetery ground, sale by court order.**
Section 1. That any board of health of this state may sell and convey any real estate, the fee of which is vested in them: Provided, That no real estate shall be sold by virtue of this act which is or has been in actual use as a cemetery or burial ground, unless the same shall be sold by an order of the circuit court upon the petition of the board of health of the township in which the burial ground is situated.

CHAPTER III.—COMMUNICABLE DISEASES**Wilful Exposure by Communicable Disease Case**

[Extract from Act 328, P. A. 1931.]

(236) Sec. 474. **Exposing others to communicable diseases, dangerous to the public health**—Any person affected with smallpox, diphtheria or scarlet fever, or any other communicable disease, dangerous to the public health, who shall wilfully enter a public place or a public conveyance, or shall in any way wilfully subject another person to danger of contracting such disease; and any person who shall knowingly and wilfully take, aid in taking or cause to be taken a child or other irresponsible person, while affected with any of the aforesaid diseases into a public place or public conveyance, or in any way knowingly and wilfully subject another person to danger of contracting any one of the aforesaid diseases from such child or irresponsible person; and any person who shall knowingly and wilfully subject another person to danger of contracting any of the aforesaid diseases from the body of a person deceased therefrom; and any person who shall in any way knowingly and wilfully expose, aid in exposing or cause to be exposed a child or other irresponsible person to danger of contracting any one of the aforesaid diseases, shall be guilty of a misdemeanor: Provided, That this section shall not apply to necessary transportation of patients suffering from such diseases in proper vehicles provided for such purposes.

This section supersedes Act 15, P. A. 1891 (§ § 6615-16, C. L. 1929), which was repealed by Act 328, P. A. 1931.

Venereal Diseases

An Act to protect the people from venereal disease, to provide for the care, treatment, isolation and hospitalization of persons afflicted therewith, to provide for the commitment of certain persons afflicted with venereal disease, to provide for their care, custody and discharge, and to prescribe penalties for the violation of this act.

[Act 6, P. A. (2nd ex. sess.) 1942.]

The People of the State of Michigan enact:

(237) **Venereal disease, definition of term.** Section 1. "Venereal disease" as used herein shall mean syphilis, gonorrhea, chancroid, lymphogranuloma venereum and granuloma inguinale. Such venereal diseases are recognized and hereby declared to be communicable and infectious diseases, and are hereby declared to be dangerous to the public health.

(238) **Physicians to report cases to state health department.** Sec. 2. Every licensed physician is required to give notice in writing as required by law for reporting of venereal diseases under Act No. 272, public acts of 1919, and regulations issued thereunder, of every case of any form of venereal disease which comes under his professional observation. The notice shall be made upon blanks to be furnished by the state commissioner of health and shall include such information as may be required by the said state commissioner of health. The notice herein provided for shall be given within 24 hours from the time the physician determines that the patient is afflicted with venereal disease.

(239) **Examination of arrested persons; detention.** Sec. 3. Every person arrested and charged with committing an act of prostitution in violation of sections 448, 449, 450, 452 and 455 of Act No. 328 of the public acts of 1931, or any city or village ordinance prohibiting prostitution, shall be examined by the local health officer or his authorized deputy to determine whether such person is afflicted with venereal disease. Any such person so taken into custody may be detained in the detention room of any county jail or in any city or village police station in this state, or in such other appropriate place as shall be designated by the peace officer having custody of such person, until such examination shall be made by the local health officer, and diagnosis established, but not for a period of more than 5 days.

(240) **Rules and regulations for discovery, etc., of disease.** Sec. 4. The state health commissioner is hereby authorized to make such rules and regulations in the manner prescribed in section 7 of Act No. 146, public acts of 1919, as he shall deem proper for the discovery and control of persons afflicted with venereal disease, and to establish rules of procedure for the guidance of health officers and other officials charged with the administration and enforcement of the laws of this state relating to the care, treatment and hospitalization and isolation of persons afflicted with venereal disease. Nothing in this act shall be construed or operate to empower or authorize the state commissioner of health, or any health officer, or their representatives, to restrict in any manner the individual's right to select the physician or mode of treatment of his choice: Provided, That sanitary laws and the laws, rules and regulations relating to infectious and contagious diseases are satisfactorily followed.

(241) **Same; failure of afflicted person to comply; procedure for hospitalization; discharge.** Sec. 5. When knowledge comes to a health officer or to the state commissioner of health that any person who is afflicted with venereal disease has failed or refused to comply with orders, rules and regulations made under section 4 of this act, or is unable or unwilling to conduct himself and to live in such a manner as not to expose members of his family or household or other persons with whom he may be associated or come in contact to danger of infection, the health officer or state commissioner of health shall forthwith investigate or have investigated the circumstances alleged. If he shall find that any such person is a menace to others he shall petition the probate court of the county in which such person resides or is found for an order directing the admission of such person to any approved hospital or institution. Upon receiving said petition the court shall fix a date for hearing thereof, and notice of such petition and the time and place of hearing thereof shall be served personally, at least 24 hours before the hearing, upon the person afflicted with such venereal disease and alleged to be dangerous to others, and upon the health officer or state commissioner of health who made the petition. The person so afflicted and the local health officer or state commissioner of health may waive notice of hearing, and upon the filing of such waiver in writing the court may proceed to hear such petition forthwith. Upon such hearing, if it shall appear that the complaint of the health officer or state commissioner of health is well founded and that the said person is a source of danger to others, such court shall commit the person afflicted to any approved hospital or institution. Such person shall be deemed to be committed until discharged in the manner authorized in this section. In making such commitment the judge of probate shall make an order for payment for the transportation of such persons, and for the maintenance of such persons as required by such hospital, which order may be a charge against the county from which the person is committed. If the person afflicted is found to have sufficient means to pay the cost of transportation and hospitalization, in whole or in part, the court may order such afflicted person to pay a part or all of such cost. The chief administrative officer of the hospital or other institution to which any such person has been committed, upon signing and placing among the permanent records of such hospital or institution a statement to the effect that such person has obeyed the rules and regulations of such hospital or institution, and that said person has received sufficient treatment to render said person no longer infectious, and that in the judgment of the attending physician such person may be discharged without danger to the health or life of others, or for any other reason stated in full which he may deem adequate and sufficient, may discharge the person so committed. He shall report each such discharge as required by law under Act No. 272, public acts of 1919, and regulations issued thereunder.

(242) **Patients to comply with rules of hospital; prosecution for violation.** Sec. 6. Every person committed under the provisions of this section shall observe all the rules and regulations of such hospital or institution. Any patient so committed who neglects or refuses to obey the rules or regulations of the institution may, by direction of the chief administrative officer of the institution, be placed apart from the others and restrained from leaving the institution. Any such patient who wil-

fully violates the rules and regulations of the institution or who repeatedly conducts himself in a disorderly manner may be taken before a justice of the peace by order of the chief administrative officer of the institution. The chief administrative officer may enter a complaint against such person for disorderly conduct and the justice of the peace, after a hearing and upon due evidence of such disorderly conduct, may commit such person for a period not to exceed 6 months to any institution to which persons convicted of disorderly conduct or vagrancy may be committed and such institution shall keep such person separate and apart from the other inmates, provided that nothing in this section shall be construed to prohibit any person committed to any institution under the provisions hereof from appealing to any court of competent jurisdiction for a review of the evidence on which such commitment was made.

(243) **Treatment, local health officer to furnish; expense; removal.**
Sec. 7. If it shall be determined by the health officer of the city, village, township, county or district, that there is any person afflicted with venereal disease found within such city, village, township, or district who requires care, treatment, isolation or hospitalization, it shall be the duty of such health officer to provide such care, treatment, isolation or hospitalization as such person requires or may be necessary for the protection of the public in accordance with the rules and regulations made by the state commissioner of health as authorized in section 4 of this act. In making such provisions the health officer shall issue such order or orders as may be necessary authorizing the care, treatment, isolation or hospitalization of such persons. Notice of the action taken, under this section or section 5 hereof, shall be reported promptly by such officer to the county department of social welfare, of the probable place of settlement of such afflicted person. Nothing herein contained shall be construed to abridge the authority of the health officer in furnishing care, treatment, isolation or hospitalization to such afflicted person, pending the determination by such health officer or upon his request, by the county department of social welfare of the financial ability and probable place of settlement of such person so afflicted, but it shall be the duty of such health officer, immediately upon being apprised of any case reported to him, to extend aid and assistance to such afflicted person, and to promptly furnish such care, treatment, isolation or hospitalization as such person may require. The health officer shall present to the board of supervisors or board of auditors of such county an itemized statement of the expense incurred in the care, treatment, isolation or hospitalization of such person with his approval of the reasonableness of such charges. The county wherein such person afflicted with venereal disease is found and cared for shall pay such charges as the board of supervisors or board of auditors thereof decides are reasonable and as are not paid by the afflicted person.

If the place of settlement of such afflicted person is determined by said department of social welfare to be in another state, said department of social welfare may proceed to remove such person to his place of settlement in the manner authorized in section 8275 of the compiled laws of 1929 and amendments thereto: Provided, however, That the chief administrative officer of the hospital where such person is being cared for and treated, shall first certify in writing that such patient is able to be removed without danger to such person or to other persons who

may come in contact with such afflicted person. If such place of settlement is determined by said department of social welfare to be in another county within this state, care shall be provided where such person is found at the expense of the county where such person has settlement. The department of social welfare shall, within 30 days after the commencement of care, give notice in writing by mail to the department of social welfare of the county of settlement of such person that such care is being given. The health officer of the county of settlement may make such arrangements as he deems necessary to provide for the return of such person to and care in said county. If the settlement of such person is not acknowledged by the alleged county of settlement within 30 days after mailing of such notice, the question of settlement of such person may be submitted for decision to the state social welfare commission, as provided herein. When disputed or contested claims arise between 2 or more counties on account of the settlement of a person or family for the purposes of this act, it shall be the duty of the director of the state social welfare commission to determine and declare the county of settlement in any instance: Provided, however, That pending determination by the director of the state social welfare commission of the county of settlement of any person afflicted with venereal disease, the county in which such person is found shall provide necessary care, treatment, isolation or hospitalization: And provided further, That upon determination by the director of the state social welfare commission that the county wherein such person is found is not the county of his or her settlement, the county of settlement, as determined by such commission, shall reimburse the county where such person is found for all expenses incurred less any reimbursements from the state, from such afflicted person or other source for such care, treatment, isolation or hospitalization.

(244) **Violation of act deemed misdemeanor.** Sec. 8. Except as otherwise provided for in this act, any person who shall violate any provision of this act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished as provided by the laws of this state.

(245) **Severability clause.** Sec. 9. Should any provision or section of this act be held to be invalid for any reason, such holding shall not be construed as affecting the validity of any remaining portion of such section or of this act, it being the legislative intent that this act shall stand, notwithstanding the invalidity of any such provision or section.

Regulating Sale of Venereal Prophylactics

An Act to safeguard the public health by regulating the sale or the giving away of any articles, devices, appliances, drugs, or other medicinal preparations designed or intended for the purpose of preventing syphilis, gonorrhea, chancroid, or such other diseases as may be defined as genito-infectious or venereal diseases by regulations of the Michigan department of health; and to prescribe penalties for the violation of the provisions of this act.

[Act 276, P. A. 1941.]

The People of the State of Michigan enact:

(246) **Venereal prophylactic; definition of term.** Section 1. Definition. The following term as used in this act is hereby defined as follows: Venereal prophylactic: any article, device, appliance, drug, or other medicinal preparation designed or intended for the purpose of preventing syphilis, gonorrhea, chancroid, or such other diseases as may be defined as genito-infectious or venereal diseases by regulations of the Michigan department of health.

(247) **Same; sale prohibited; exceptions; identification of manufacturer.** Sec. 2. It shall be unlawful for any person, firm, corporation, or association to sell, to offer for sale or to give away any such prophylactic article or drug either individually or through the medium of vending machines or by any other means: Provided, however, That the foregoing provisions shall not apply to (1) those licensed under Act No. 237 of the public acts of 1899, as amended, or (2) those licensed under Act No. 162 of the public acts of 1903, as amended, or (3) registered pharmacists while employed on the premises of a licensed drug store, or to wholesalers of such articles, devices, appliances, or medicinal preparations who sell to retail stores for resale. It is further provided that all and any such articles, devices, appliances, drugs or medicinal preparations herein described shall, when sold, offered for sale, given away or distributed whether at wholesale or retail in accordance with the provisions of this act, conspicuously bear the identification of the manufacturer thereon or on the retail container thereof. Such articles, devices, appliances, drugs or medicinal preparations shall comply with standards with respect to grade and quality as designated by the pure food and drug administration of the United States department of agriculture.

(248) **Same; display or advertising prohibited; exceptions.** Sec. 3. It shall be unlawful to exhibit or display prophylactics in any show window, upon the streets, or in any public place, or to advertise such in any magazine, newspaper or other form of publication originating in, or published within the state of Michigan, to publish, or distribute from house to house or upon the streets, any circular, booklet or other form of advertising, or by other visual means, or by auditory method, or by the use of outside signs on stores, billboards, window displays or other advertising visible to persons upon the streets or public highways: Provided, however, That nothing in this act shall prevent the advertising of prophylactics in those magazines whose principal circulation is to the medical and pharmaceutical professions. It is further provided that nothing in this act shall prevent the display or exhibit of such articles, devices, appliances, or other medicinal preparations by federal, state,

county, district or municipal departments of health, or incorporated medical, pharmaceutical or scientific organizations.

(249) **Arrest of violators of act; seizure of merchandise.** Sec. 4. Any officer of the law shall be required to arrest any person violating any of the provisions of this act, to seize stocks so illegally held, and to make seizure of any mechanical device or vending machine containing any merchandise coming within the provisions of this act; holding the owner of such machine, the proprietor and the owner of the premises where seizure is made to be in violation of this act.

(250) **Penalty for violation of act; confiscation of merchandise.** Sec. 5. Any person, firm, corporation, or association or the officers or members of such firm, corporation, or association who or which knowingly violate any of the provisions of this act shall be guilty of a misdemeanor and upon conviction thereof said person or persons shall be fined not to exceed \$100.00, or imprisoned not to exceed 30 days in the county jail, or both such fine and imprisonment at the discretion of the court, and all property seized under the provisions of this act shall be destroyed.

(251) **Severability clause.** Sec. 6. Should any provision or section of this act be held to be invalid for any reason, such holding shall not be construed as affecting the validity of any remaining portion of such section or of this act, it being the legislative intent that this act shall stand, notwithstanding the invalidity of any such provision or section.

Sec. 7. Repealing clause.

Antenuptial Physical Examination

An Act to provide for an antenuptial physical examination; to provide a penalty for the violation of the provisions of this act; and to declare the effect of this act.

[Act 207, P. A. 1937.]

The People of the State of Michigan enact:

(252) **Antenuptial examination for venereal disease; certificate; laboratory tests, authority of commissioner of health.** Section 1. All persons making application for license to marry shall at any time within 30 days prior to such application be examined as to the existence or non-existence in such person of any syphilis, gonorrhea or chancroid, and except as herein otherwise provided, it shall be unlawful for the county clerk of any county to issue a license to marry to any person who fails to present and file with such county clerk a certificate setting forth that such person is free from syphilis, gonorrhea and chancroid. In order to obtain a certificate as required in this act, both parties to a proposed marriage shall, within 30 days prior to making application for license to marry, submit to medical examination for the presence of syphilis, gonorrhea or chancroid. All laboratory tests required by this act shall be made by the Michigan department of health or a laboratory which is approved by the state commissioner of health. The state commissioner of health may establish standards for the equipment and operation of approved laboratories, and may remove a laboratory from the approved list if it shall be established to the satisfaction of said commissioner that such laboratory is inadequately equipped or improperly operated. Such tests as may be made by the Michigan department of health shall be free

of charge. Laboratory tests shall include a serological test approved by the state commissioner of health, a dark field test where indicated and a microscopic test for gonococci when indicated, the specimens for which shall be submitted in a manner prescribed by the state commissioner of health. Such certificates of negative findings as to each of the parties to a proposed marriage, or certificate issued by the state commissioner of health as provided in section 1a of this act, shall be filed with the county clerk at the time application for a license to marry is made.

Am. 1939, Act 112.

(252a) **Special certificate in case of positive reaction, but non-communicable; application to commissioner of health, re-examination; records not open to public.** Sec. 1a. If it shall be found, on the basis of the laboratory and clinical findings that the applicant is not free, or question exists as to such freedom, from one or more of said diseases, but that, in the opinion of the examining physician the said disease, or diseases, is in a non-communicable stage, the applicant may apply to the commissioner of health for a certificate setting forth that the applicant has been qualified according to law under special dispensation provided by this act for marriage. Such certification may be issued, providing in the opinion of the state commissioner of health and other examining physician or physicians as may be designated by said commissioner of health to re-examine, that such applicant would not endanger the health of the other party to a proposed marriage or the health of the issue of such marriage, providing further that the reason for such special certification shall be explained to the proposed marital partner. Such appointee or appointees may include the physician performing the original examination. Any re-examination of the applicant for a certificate from the state commissioner of health shall be made within 30 days prior to the making of an application for a license to marry by the applicant.

Any certificate issued in accordance with the provisions of this section shall be kept by the county clerk separate and apart from all other records of his office pertaining to said marriage; and all information upon which decision for approving or not approving the special license of the applicant was made shall be placed in permanent file in the state department of health. Such certificates and information are hereby declared not to be public records. It shall be unlawful for any person to disclose the contents of any certificate issued in accordance with this section except to the Michigan department of health or to the local health officers or proposed marital partner.

All applications made to the said commissioner of health for a certificate in accordance with the provisions of this section shall be made upon an application form provided by the Michigan department of health which shall be accompanied by the examining physician's report of his examination stating the result of the laboratory and clinical findings and the reason or reasons why it is deemed that the disease, or diseases, with which applicant is infected is in a non-communicable stage.

Added 1939, Act 112.

(253) **Unlawful issuance of license or disclosure of tests, penalty.** Sec. 2. Any county clerk who shall unlawfully issue a license to marry to any person who fails to present and file a certificate as required by sections 1 or 1a of this act, or any party or parties having knowledge of

any matter relating or pertaining to the examination of any applicant for license to marry or clinical and laboratory tests taken by any party to a proposed marriage, who shall disclose the same, or any portion thereof, except as may be required by law, shall be guilty of a misdemeanor, and upon conviction thereof shall be punished as provided by the laws of this state.

Am. 1939, Act 112.

(254) **False statement by physician, penalty.** Sec. 3. Any physician who shall knowingly and wilfully make any false statement in any certificate given by such physician under this act shall be guilty of a misdemeanor, and upon conviction thereof shall be punished as provided by the laws of this state.

(255) **Penalty.** Sec. 4. Any person who shall violate any of the provisions of this act, for which a penalty is not specifically provided, shall be guilty of a misdemeanor, and upon conviction shall be punished as provided by the laws of this state.

Preventing Spread of Venereal Diseases

An Act to protect the public health; to prevent the spreading of venereal diseases, to prescribe the duties and powers of the state department of health and of local health officers and health boards, and physicians, with reference thereto. (a)

[Act 272, P. A. 1919.]

The People of the State of Michigan enact:

(256) **§ 6631 Venereal diseases; control.** Section 1. The diseases commonly known as syphilis, gonorrhea and chancroid are hereby declared to be dangerous, communicable and infectious diseases and are declared to be subject to all the laws of the state pertaining to such diseases, except as in this act modified or otherwise provided.

(257) **§ 6632 Same; rules to prevent spread; reports, not public record.** Sec. 2. The state department of health is hereby authorized and directed to adopt rules and regulations to prevent the spreading of said diseases to facilitate the proper treatment thereof and to regulate the quarantining and isolation of infected persons. Proper steps should also be taken for the dissemination to the public of such information as is deemed proper and expedient to prevent infection from said diseases. A system of reports for the use of physicians and health officers shall be prescribed, and suitable blanks shall be prepared and furnished to physicians and health officers. A physician or health officer having knowledge of a case of syphilis, gonorrhea or chancroid shall immediately report the same in accordance with the rules and regulations of the state department of health and shall give such detailed information as may be required by said board. All such reports and all records and data of the state board of health or any local health officer pertaining to the care and treatment of such diseases are hereby declared not to be public records.

Original section 3 providing for care of venereal disease patients through state department of health, was repealed by Act 180, P. A. 1927.

(a) Title Am. 1939, Act 106.

(258) **Pregnant women; blood test for syphilis; statement on birth certificate.** Sec. 3. Every physician attending a pregnant woman in the state of Michigan shall, in the case of each woman so attended, take or cause to be taken a sample of blood of such woman at the time of first examination, and submit such sample to an approved laboratory for a standard serological test for syphilis. Every other person permitted by law to attend upon pregnant women in the state, but not permitted by law to take blood tests, shall cause a sample of the blood of such pregnant women to be taken and submitted to an approved laboratory for a standard serological test for syphilis. The term "approved laboratory" shall mean a laboratory approved for this purpose by the state department of health. A standard serological test for syphilis shall be one recognized as such by the state department of health. Such laboratory tests as are required by this act may be made on request without charge by the state department of health.

In reporting every birth and stillbirth, physicians and others permitted to attend pregnancy cases and required to report births and stillbirths, shall state on the birth certificate or stillbirth certificate, as the case may be, whether a blood test for syphilis has been made during such pregnancy upon a specimen of blood taken from the woman who bore the child for which a birth or stillbirth certificate is filed and, if made, the date when such test was made, and if not made, the reason why such test was not made. In no event shall the birth certificate state the result of the test.

Such tests and reports shall not be made a matter of public record but shall be available to local health officers and to the physicians treating the patient.

Added 1939, Act 106.

(259) **§ 6633 Same; failure to report; misdemeanors; penalty.** Sec. 4. Any physician or local health officer who fails to report any case of syphilis, gonorrhea or chancroid in accordance with the rules and regulations of the state department of health, or any person who while receiving treatment for any such diseases under the direction, supervision and control of the said board as herein contemplated, shall without leave break quarantine and leave the place of treatment or any persons who shall violate any of the provisions of this act or the rules and regulations of the state department of health adopted hereunder shall be guilty of a misdemeanor and upon conviction shall be liable to a fine of not more than one thousand dollars or to imprisonment in the county jail for not more than one year, or to both such fine and imprisonment in the discretion of the court.

Sec. 5 was repealed by Act 180 of 1927.

This section regulated the giving of prescriptions for diseases mentioned in section 1 of this act.

Sec. 6. Appropriation clause.

Sec. 7 provided for manner of disbursement.

Employment of Persons having Venereal Disease

[Extract from Act 328, P. A. 1931.]

(260) Sec. 470. **Employment in cigar or food establishments of persons affected with venereal disease, etc.**—No person who is affected with any infectious disease, or with any venereal disease in a communicable form, shall work, or be permitted to work in any place, where cigars are manufactured or where food or drink is prepared, cooked, mixed, baked, exposed, bottled, packed, handled, stored, manufactured, offered for sale or sold. Whenever required by any local health officer, any person employed in any such places shall submit to a physical examination by such officer, or by some physician designated by such health officer or by a physician regularly in the employ of the person or institution by whom the person to be examined is employed. If as a result of such examination, such person shall be found to be affected with any infectious disease, or with any venereal disease in a communicable form, such employment shall immediately cease and such person shall not be permitted to work in any such place.

Any person, knowingly affected with any infectious disease, or with any venereal disease in a communicable form, who shall work in any place mentioned in this section, and any person knowingly employing or permitting such person to work in such place, shall be guilty of a misdemeanor, punishable by imprisonment in the county jail not more than one year or by a fine of not more than five hundred dollars.

This section supersedes Act 25, P. A. 1919 (§§ 6635-36, C. L. 1929) which was repealed by Act 328, P. A. 1931, and Act 353, P. A. 1913 (§§ 6637-38, C. L. 1929).

Care of Tuberculosis Cases

An Act to protect the people from tuberculosis, to provide for the care, treatment, isolation and hospitalization of persons afflicted therewith, to provide for the commitment of certain persons afflicted with tuberculosis, to provide for their care, custody and discharge, and to prescribe penalties for the violation of this act. (a)

[Act 314, P. A. 1927.]

The People of the State of Michigan enact:

(261) **§ 6639 Tuberculosis a communicable disease; notices to health officers and state health department, form, time.** Section 1. Tuberculosis is hereby declared to be a communicable disease dangerous to the public health. Every practicing physician is required to notify in writing the health officer of the city, village, township, county or district in which the case resides, of every case of any form of tuberculosis which comes under his professional observation, except that superintendents of hospitals or sanatoriums shall send such notice direct to the Michigan department of health when a case of tuberculosis is hospitalized from a jurisdiction other than that in which the hospital or sanatorium is located. The notice shall be made upon blanks to be furnished by the state commissioner of health and shall include such information as may be required by the said state commissioner of health. The notice herein pro-

vided for shall be given within twenty-four hours from the time the physician determines that the patient is afflicted with tuberculosis.

Am. 1937, Act 93.

See Brink v. Shepard, 215/393.

(262) § 6640 Same; rules and regulations for discovery and control; individual rights. Sec. 2. The state health commissioner is hereby authorized to make such rules and regulations as he shall deem proper for the discovery and control of persons afflicted with tuberculosis, and to establish rules of procedure for the guidance of health officers and other officials charged with the administration and enforcement of the laws of this state relating to the care, treatment and hospitalization of persons afflicted with tuberculosis. Nothing in this act shall be construed or operate to empower or authorize the state commissioner of health, or any health officer, or their representatives, to restrict in any manner the individual's right to select the physician or mode of treatment of his choice: Provided, That sanitary laws and the laws, rules and regulations relating to infectious and contagious diseases are complied with.

Am. Id.

(263) Same; commitment for treatment, petition, hearing, order, payment of expense, discharge; report; appeal. Sec. 2a. When knowledge comes to a health officer or to the state commissioner of health that any person is afflicted with tuberculosis and is unable or unwilling to conduct himself and to live in such a manner as not to expose members of his family or household or other persons with whom he may be associated to danger of infection, the health officer or state commissioner of health shall forthwith investigate or have investigated the circumstances alleged. If he shall find that any such person is a menace to others he shall petition the probate court of the county in which such person resides for an order directing the admission of such person to any approved hospital or institution established for the care of persons suffering from tuberculosis. Notice of such petition and the time and place for hearing thereof shall be served personally, at least twenty-four hours before the hearing, upon the person who is afflicted with tuberculosis and alleged to be dangerous to others, and upon the health officer, or state commissioner of health, who made the petition. Upon receiving said petition the court shall fix a date for hearing thereof and if, upon such hearing, it shall appear that the complaint of the health officer or state commissioner of health is well founded and that the said person is a source of danger to others, such court shall commit him to any approved hospital or institution maintained for the care and treatment of persons afflicted with tuberculosis. Such person shall be deemed to be committed until discharged in the manner authorized in this section. In making such commitment the judge of probate shall make an order for payment for the maintenance of such person as required by such hospital, which order shall be a charge against the county from which the person is committed. The chief medical officer of the hospital or other institution to which any such person has been committed, upon signing and placing among the permanent records of such hospital or institution a statement to the effect that such person has obeyed the rules and regulations of such hospital or institution for a period of not

less than sixty days and that in his judgment such person may be discharged without danger to the health or life of others, or for any other reason stated in full which he may deem adequate and sufficient, may discharge the person so committed. He shall report each such discharge together with a full statement of the reasons therefor at once to the health officer of the city, village, township, county or district from which the patient came at the next meeting of the board of managers or other controlling authority of such hospital or institution. Every person committed under the provisions of this section shall observe all the rules and regulations of such hospital or institution. Any patient so committed who neglects or refuses to obey the rules or regulations of the institution may, by direction of the chief medical officer of the institution, be placed apart from the others and restrained from leaving the institution. Any such patient who wilfully violates the rules and regulations of the institution or who repeatedly conducts himself in a disorderly manner may be taken before a justice of the peace by order of the chief medical officer of the institution. The chief medical officer may enter a complaint against such person for disorderly conduct and the justice of the peace, after a hearing and upon due evidence of such disorderly conduct, may commit such person for a period not to exceed six months to any institution to which persons convicted of disorderly conduct or vagrancy may be committed and such institution shall keep such person separate and apart from the other inmates, provided that nothing in this section shall be construed to prohibit any person committed to any institution under the provisions hereof from appealing to any court of jurisdiction for a review of the evidence on which such commitment was made.

Added 1937, Act 93.

(264) **§ 6641 Tuberculosis, health officer to furnish care; expense to be borne by place of settlement, procedure to ascertain.** Sec. 3. If it shall be determined by the health officer of the city, village, township, county or district, that there is any person afflicted with tuberculosis found within such city, village, township or district who requires care, treatment, isolation or hospitalization, it shall be the duty of such health officer to provide such care, treatment, isolation or hospitalization as such person requires or may be necessary for the protection of the public in accordance with the rules and regulations made by the state commissioner of health as authorized in section 2 of this act. In making such provisions the health officer shall issue such order or orders as may be necessary authorizing the care, treatment, isolation or hospitalization of such persons. Notice of the action taken, under this section or section 2a hereof, shall be reported promptly by such officer to the county department of social welfare, of his probable place of settlement. Nothing herein contained shall be construed to abridge the authority of the health officer in furnishing care, treatment, isolation or hospitalization to such person, pending the determination by such health officer or upon his request, by the county department of social welfare of the financial ability and probable place of settlement of such person so afflicted, but it shall be the duty of such health officer, immediately upon being apprised of any case reported to him, to extend aid and assistance to such afflicted person, and to promptly furnish such care, treatment, isolation

or hospitalization as such person may require. The health officer shall present to the board of supervisors or board of auditors of such county an itemized statement of the expense incurred in the care, treatment, isolation or hospitalization of such person with his approval of the reasonableness of such charges. The county wherein such person afflicted with tuberculosis is found and cared for shall pay such charges as the board of supervisors or board of auditors thereof decides are reasonable.

If such place of settlement is determined by said department of social welfare to be in another state or country, said department of social welfare may proceed to remove such person to his place of settlement in the manner authorized by section 8275 of the compiled laws of 1929 and amendments thereto: Provided, however. That the medical superintendent of the hospital where such person is being cared for, shall first certify in writing that such patient is able to be removed without endangering his life. If such place of settlement is determined by said department of social welfare to be in another county within this state, care shall be provided where such person is found at the expense of the county where such person has settlement. The department of social welfare shall, within 30 days after the commencement of care, give notice in writing by mail to the department of social welfare of the county of settlement of such person that such care is being given. The health officer of the county of settlement may make such arrangements as he deems necessary to provide for the return of such person to and care in said county. If the settlement of such person is not acknowledged by the alleged county of settlement within 30 days after mailing of such notice, the question of settlement of such person may be submitted for decision to the state social welfare commission, as provided herein. When disputed or contested claims arise between 2 or more counties on account of the settlement of a person or family for the purposes of this act, it shall be the duty of the director of the state social welfare commission to determine and declare the county of settlement in any instance, when so requested or on the department's own volition: Provided, however, That pending determination by the director of the state social welfare commission of the county of settlement of any person afflicted with tuberculosis, the county in which such person is found shall provide necessary care, treatment, isolation or hospitalization: And provided further, That upon determination by the director of the state social welfare commission that the county wherein such person is found is not the county of his or her settlement, the county of settlement, as determined by such commission, shall reimburse the county where such person is found for all expenses incurred less any reimbursements from the state or other source for such care, treatment, isolation or hospitalization.

Am. 1937, Act 93; 1941, Act 240.

(265) **§ 6642 Printed matter, payment of cost.** Sec. 4. The cost of all printed matter required by this act to be furnished by the state commissioner of health shall be paid by the auditor general out of the general fund of the state treasury, on presentation of vouchers approved by the state commissioner of health.

(266) **§ 6643 Penalty.** Sec. 5. Any person who violates any of the provisions of this act or the rules and regulations of the state commis-

sioner of health shall be deemed guilty of a misdemeanor and upon conviction shall pay a fine not exceeding one hundred dollars.

Sec. 6 repeals act number twenty-seven of the public acts of nineteen hundred nine, as amended, and any other acts or parts of acts in conflict herewith.

Subjects for Teaching in Schools

[Extracts from Chap. 2, Part II, Act 819, P. A. 1927.]

(267) **§ 7376 Communicable diseases, instruction.** Sec. 17. There shall be taught in every public school within this state the principal modes by which each of the dangerous communicable diseases are spread and the best methods for the restriction and prevention of each such disease. Such instruction shall be given by the aid of textbooks on physiology, supplemented by oral and blackboard instruction. No textbook on physiology shall be adopted for use in the public schools of this state, unless it shall give at least one-eighth of its space to the causes and prevention of dangerous communicable diseases and the requirements for maintaining good health.

Prevey v. School District, 263/622.

(268) **§ 7377 Physiology and hygiene, instruction.** Sec. 18. In addition to the branches in which instruction is now required by law to be given in the public schools of the state, instruction shall be given in physiology and hygiene, with a special reference to the nature of alcohol and narcotics, and their effect upon the human system. Such instruction shall be given by the aid of textbooks in the case of pupils who are able to read, and as thoroughly as in other studies pursued in the same school.

An atlas containing forty or fifty pages of plates and printed matter prepared as an aid in teaching anatomy and physiology with special reference to the effect of alcohol and nicotine upon the human system, is not absolutely necessary in order that effect may be given to the purpose of this law.—Western Pub. House v. School District, 94/262, 265.

CHAPTER IV.—SANITATION

Supervision of Waterworks and Sewage Disposal Systems

An Act providing for the supervision and control by the state board of health over waterworks systems and sewage disposal systems, for the classifying of water treatment plants for the examination, certifying, and regulation of persons in charge of such water treatment plants, and providing for the appointment, duties, salary and expenses of a state sanitary engineer, and providing penalties and defining liabilities for violations of this act; and to repeal Act No. 28 of the public acts of 1909. (a)

[Act 98, P. A. 1918.]

The People of the State of Michigan enact:

(269) **§ 6662 Furnishing of drinking and household waters, control; corporation defined.** Section 1. The state board of health is hereby given supervisory and visitorial power and control as limited in this act over all corporations both municipal and private, partnerships and individuals engaged in furnishing water to the public for household or drinking purposes, and over the plants and systems owned or operated by such munic-

ipal or private corporations, partnerships or individuals. The word "corporation" as hereinafter used in this act shall be taken to mean and include municipal corporations as well as private corporations.

(270) **§ 6663 State board of health; inspection power.** Sec. 2. The state board of health, its agents and representatives, shall have the power and authority to enter upon, at all reasonable times, the pumping plants, filtering plants, reservoirs, standpipes, cribs and other property of such corporations, partnerships or individuals, for the purpose of inspecting the same and carrying out the authority vested in them by this act.

(271) **§ 6664 Waterworks and filtration plants; authority of state board of health; rules and regulations; orders to cleanse.** Sec. 3. The state board of health shall have authority to make and enforce such rules and regulations as it may deem necessary, governing and providing a method of conducting and operating the entire or any part of the systems of waterworks, including the filtration plants, owned or operated by such corporations, partnerships or individuals. Such board shall classify water treatment plants with due regard to the size, type, location, and other physical conditions affecting such plants and according to the skill, knowledge, experience, and character that the person in active operating charge must have to successfully operate said plants and to maintain the public health. Such board shall examine persons as to their qualifications to operate such plants and issue and revoke certificates for such persons, adopt rules and regulations regarding the classification of such plants and the examinations for certificates for the operators of such plants and issuance and revocation of such certificates. Every water treatment plant subject to the provisions of this act shall, within 30 days after the effective date of this act or within such longer period as the board shall prescribe, be under the supervision of a properly certified operator: Provided, however, That nothing herein contained shall prevent such corporations, both municipal and private, partnerships and individuals from continuing to employ in such capacity any person now in responsible charge of the operation of a water treatment plant. And said board shall, in addition to the other powers herein vested in it, whenever it shall deem it necessary for the protection of health, have authority to direct such corporations, partnerships or individuals operating waterworks systems to cleanse any portion of such systems as it may deem necessary, and to operate the same in such manner as to furnish pure and wholesome water, and to enforce such directions by rule or regulations.

Am. 1941, Act 239.

Commissioner of health may order alterations in waterworks systems and sewage disposal systems necessary to safeguard health.—Op. Atty. Gen., June 25, 1942.

(272) **§ 6665 Contaminated water; investigation, examination, evidence.** Sec. 4. Whenever the mayor of a city, president of a village, supervisor of a township, health officer or representative of the state board of health has reason to believe that the water furnished by any corporation, partnership or individual is contaminated, then it shall be the duty of the state board of health, upon the request of such officer, to investigate the same and to determine by laboratory analysis the condition of said water, and the certificate of the state bacteriologist showing result of such analysis shall be *prima facie* evidence of the matters stated in such

certificate and also as to the source of the water and the time and place of taking, and of all matters that may be stated in said certificate.

(273) **§ 6666 Same; expenses of investigation.** Sec. 5. The expenses of the investigation and analysis made by the state board of health shall be borne by the locality, and shall be paid for at the rate of five dollars per day and necessary traveling expenses while making such investigation and analysis, and shall constitute a charge against the city, village or township asking for such investigation; the said per diem to be covered into the state treasury to the credit of the state board of health laboratory fund in addition to the amount already appropriated.

(274) **§ 6667 Waterworks systems; plans and specifications, contents, certification and filing; permit for construction; unlawful acts, penalty.** Sec. 6. It shall be the duty of the mayor of each city, the president of each village and of all private corporations, partnerships or individuals now or hereafter operating waterworks systems in this state, to file with the state health commissioner a true and correct copy of the plans and specifications of the entire system owned or operated by such corporation, partnership or individual, including such filtration or other purification plant as may be operated by them in connection therewith, and also plans and specifications of all alterations, additions or improvements to such systems which may be made from time to time. The plans and specifications herein referred to shall, in addition to all other things, show all the sources through or from which water is or may be at any time pumped or otherwise permitted or caused to enter into such system. Such plans and specifications shall be certified by the mayor and city engineer of city corporations, by the president and engineer, if one is employed, for village corporations, and by such proper officer and the engineer employed by a private corporation for private corporations, and by some individual member of a partnership, or by the individual owner in case of waterworks owned and operated by partnerships or individuals, including the engineer employed, if any. Before commencing the construction of any water works system, filtration or other purification plant or any alteration, addition or improvement to such system which may be necessary from time to time, it shall be the duty of the mayor of each city, the president of each village and of all private corporations, partnerships or individuals to submit the plans and specifications of the same to the state health commissioner and secure from the said state health commissioner a permit for the construction of the same. It shall be unlawful for any contractor, builder, corporation, partnership or individual to engage in or commence the construction of any waterworks system, filtration or other purification plant or any alteration, addition or improvement thereto until permit for the construction of the same has been secured from the state health commissioner. It shall be unlawful for any official of the corporation or partnership, or for any individual to issue any voucher, check or in any other way expend moneys of the corporation, partnership or individual for such construction unless permit for the same has been issued by the state health commissioner. Any municipal officer, officer or agent of a corporation, partnership, or individual who shall permit or allow construction to proceed before the permit for the same has been issued by the state health commissioner, or in a manner not in accordance with the plans and specifications approved by the state health commissioner,

shall be guilty of a misdemeanor and shall be subject to a fine of not less than twenty-five dollars and not more than one hundred dollars or to imprisonment in the county jail not more than thirty days, or to both such fine and imprisonment.

Am. 1931, Act 123; 1937, Act 89.

(275) **§ 6668 Plans and specifications, definition.** Sec. 7. The words "plans and specifications" as used in this act shall be construed to mean a true description or representation of the entire systems proposed or operated by such corporation, partnership or individual, as the same is to be constructed or actually in use at the time of filing the same, and also a full and fair statement of how the same is to be operated.

Am. 1931, Act 123.

(276) **§ 6669 Water treatment plants, reports, perjury.** Sec. 8. In case of corporations, partnerships, or individuals operating water treatment plants, it shall be the duty of such corporations, partnerships or individuals to file with the state health commissioner such reports under oath as may be required from time to time. Such report shall be sworn to by any municipal officer or person acquainted with the facts and employed by such corporation, partnership or individual at the time of making said report. In the case of a municipal corporation it shall be the duty of the clerk thereof to prepare and forward such report. Any person making a false statement in such report shall be deemed guilty of and subject to the penalty of perjury.

Am. Id.

(277) **§ 6670 Penalty.** Sec. 9. Any corporation other than municipal, any partnership, company or individual, or any officer of any municipal corporation having the duty imposed upon him by this act, who shall violate any provision of this act where no other penalty is provided therein, shall be guilty of a misdemeanor, and shall be punished therefor as provided by law.

(278) **§ 6671 Inspection by board; orders and recommendations.** Sec. 10. It shall be the duty of the state board of health on receipt of the plans and specifications of such waterworks systems to inspect the same with reference to their effect upon the public health, and if such board on such inspection finds that the public water supply of any such city or village is impure and dangerous to individuals or to the public generally, the said board on its order may require the corporation, partnership or individual owning and operating the same to make such alterations in such waterworks systems as may be required or advisable in the opinion of said board, in order that the water supply may be healthful and free of pollution. Such recommendations or orders of the state board of health shall be served in writing upon such corporations, partnerships or individuals, and it shall thereupon be the duty of such corporations, partnerships or individuals to comply with such recommendations or orders.

(279) **§ 6672 Sewage disposal systems; filing of plans; inspection; recommendations; mandamus.** Sec. 11. The state board of health shall have the same power of visitation, inspection, direction and control over the sewage disposal systems of private and public corporations of this state as is herein given with respect to waterworks systems. The mayor of each city and the president of each village and of all private corpora-

tions shall file with the secretary of the state board of health on or before the first day of January, nineteen hundred twenty-two, a true and correct description of the entire sewage systems owned by such public or private corporations. It shall be the duty of the state board of health, upon receipt of such plans and specifications, to inspect the same with reference to their effect upon the public health, and if such board on such inspection finds that such sewage systems, or any parts thereof, are dangerous to individuals or to the public health generally, the said board, on its order, may require such alterations in such systems as may be required or advisable in the opinion of such board: Provided, That nothing herein contained shall be construed to grant any power to prevent any corporation now disposing of its sewage into any river from continuing to do so after all deleterious matter has been eliminated by filtration. Such recommendations or orders shall be served in writing, upon the clerk of any public corporation and the president of any private corporation, and thereupon it shall be the duty of such public or private corporations to make such alterations, changes or additions to its sewage systems as shall have been so recommended or ordered by said board: Provided further, That the attorney general may institute mandamus proceedings in the circuit court of Ingham county to compel any public or private corporation to comply with the provisions of this section.

Attorney general has no standing on his own motion, in behalf of the people, to enjoin city from emptying raw sewage into river, where proofs fail to show public nuisance.—Atty. Gen. v. Howell, 231/401.

Commissioner of health has authority to order village to make specific alterations in sewage system.—Op. Atty. Gen., Sept. 29, 1939.

(280) **§ 6673 State sanitary engineer; appointment, duties, salary and expenses.** Sec. 12. The state commissioner of health is hereby authorized and empowered to employ a sanitary engineer, who shall be known by the title of state sanitary engineer, who shall give his full time under the direction of the commissioner to the visitation, inspection and investigation of the waterworks systems, sewage disposal systems, garbage disposal systems in the cities and villages of this state, and to such other matters as the commissioner may direct. He shall be paid a salary to be fixed by the commissioner, with the approval of the state legislature, and his expenses for traveling and clerk hire under the direction of the commissioner, to be paid out of the general fund of the state, the same to be audited as provided by law on the approval of the commissioner. He shall at all times be subject to the orders of and removal by the commissioner.

Am. 1933, Act 60.

(281) **§ 6674 Penalty.** Sec. 13. Any person who shall violate any of the provisions of this act shall, upon conviction, be punished by a fine of not less than one hundred dollars or by imprisonment in the county jail for not less than ninety days, or both such fine and imprisonment, as shall be deemed advisable by the court before whom such conviction is secured.

This section as it was originally enacted repealed Act 28, P. A. 1909.

City Sewage Disposal Works

An Act to authorize cities and villages to construct, own, equip, operate, maintain and improve works for the disposal of sewage; to authorize charges against owners of premises for the use of such works and to provide for the collection of the same; to authorize cities and villages to issue revenue bonds payable solely from the revenues of such works; and to make such bonds exempt from taxation and to make them lawful investments of sinking funds; to authorize contracts for the use of such works by private corporations and by other cities and villages and political subdivisions and charges against owners of premises therein served thereby. (a)

[Act 316, P. A. 1931.]

The People of the State of Michigan enact:

(282) **Cities and villages.** Section 1. **Construction of sewage disposal plants.** Every city and village in the state of Michigan is hereby authorized to construct, own, equip, operate, maintain and improve, either within or without the corporate limits of such municipality, works for the treatment, purification and disposal in a sanitary manner, approved by the state department of health, of the sewage of such municipality, together with intercepting sewers, connecting trunk lines, force mains and necessary appurtenances and pumping stations and to acquire any and all other property deemed necessary or proper for the construction, operation and maintenance thereof, and to issue revenue bonds to pay the cost of such works and property which shall be payable solely from the revenue of such works as hereinafter provided. The aggregate face amount of such revenue bonds shall not exceed three and one-half per cent of the assessed valuation of property in the municipality as last fixed for taxation prior to the issuance of such bonds. Every such city and village, by its legislative body, shall have power to acquire by purchase upon such terms and conditions and in such manner as the legislative body of the municipality may deem proper, and/or to acquire by condemnation in accordance with and subject to the provisions of any and all existing laws applicable to the condemnation of property for public use by such municipality, any land, rights, easements, franchises and other property deemed necessary or proper for the construction, operation and maintenance of such works. Title to the property condemned shall be taken in the name of the municipality. The municipality shall be under no obligation to accept and pay for any property condemned under this act except from the funds provided by this act, and in any proceedings to condemn such orders may be made by the court having jurisdiction of the suit, action or proceeding as may be just to the municipality and to the owners of the property to be condemned.

(283) Sec. 2. **Ordinance required.** Before constructing any works under this act, the legislative body of the municipality shall adopt an ordinance which shall (a) set forth a brief and general description of the works and a reference to the plans and specifications which shall theretofore have been prepared and filed with the clerk of the municipality by an engineer chosen by the legislative body and which shall have been approved by the state department of health; (b) set forth the cost thereof estimated by an engineer chosen by the legislative body thereof which

estimate shall be approved by the state department of health; (c) set forth the period of usefulness of the works as estimated by the state department of health, which department is hereby authorized and directed to make such estimate upon application therefor by any officer of the city or village; (d) order the construction of such works and the acquisition of all property deemed necessary or proper for the construction, operation and maintenance thereof; and (e) direct that revenue bonds of the municipality shall be issued pursuant to this act in such an amount as may be found necessary to pay the cost of the works, but not exceeding a maximum sum to be stated in said ordinance. Such ordinance shall not become effective until approved by a three-fifths vote of the qualified electors of such municipality voting thereon at a regular or special election. The legislative body of such municipality shall fix the date for the holding of such election, and shall publish such ordinance in at least one or more newspapers published in such municipality and, if no newspaper is published within the municipality, in a newspaper published in the county and circulated within the municipality, at least once, not less than two weeks preceding said election. Notice of the date of such election and the purpose thereof shall be given in the manner provided by the general election laws of the state. The ballots upon which said question shall be submitted shall be substantially in the following form:

"Shall the ordinance providing for a sewage disposal system, (rates to be established by the legislative body) as passed by the
of the (city) or (village) of at a cost not exceeding \$
to be paid out of the revenues of said system be adopted?

- Yes
- No".

If upon canvass of the votes cast at such election it shall appear that three-fifths of those voting are in favor of adopting the ordinance, then and thereafter such ordinance shall be in full force and effect in such municipality. If it shall appear that three-fifths of those voting at such election are not in favor of adopting such ordinance, the same question shall not be submitted within two years. In all elections held under this act the manner of preparing and distributing the ballots, the manner of conducting, canvassing, returning and declaring the results shall be the same as prescribed by law for other elections in such municipality.

(284) Sec. 3. **Control of works.** The construction, improvement, equipment, operation and maintenance of the works shall be under the supervision and control of the legislative body of the municipality, unless otherwise provided by its charter.

(285) Sec. 4. **Powers.** Any city or village, by its constituted authorities, shall have power to make and enter into all contracts or agreements necessary or incidental to the execution of its powers under this act, and may employ engineering, architectural and construction experts and inspectors and attorneys, and such other employes as may be deemed necessary, and may fix their compensation. All such compensation and all expenses incurred in carrying out the provisions of this act shall be paid solely from funds provided under the authority of this act, and no liability or obligation shall be incurred hereunder after the approval of such ordinance by the electors, beyond the extent to which money shall have been provided under the authority of this act. No contract or agreement with any contractor or contractors for labor

and/or material, exceeding in amount the sum of one thousand dollars, shall be made without advertising for bids, which bids shall be publicly opened and award made to the best bidder, with power to reject any or all bids. After the construction and installation of the works, the city or village shall operate, manage and control the same and may order and complete any extensions, betterments and improvements of and to the works that may be deemed expedient, if funds therefor be available or made available as provided in this act, and shall establish rules and regulations for the use and operation of the works and do all things necessary and expedient for the successful operation thereof. All public or private property damaged or destroyed in carrying out the powers granted under this act shall be restored or repaired and placed in their original condition, as nearly as practicable, or adequate compensation made therefor, out of funds provided by this act.

(286) **Sec. 5. What included in cost of works.** The cost of the works as defined in section one shall be deemed to include the cost of all property, rights, easements and franchises deemed necessary or convenient therefor, interest upon bonds prior to and during construction and for six months after completion of construction, engineering and legal expenses, estimates of cost and of revenues, plans, specifications and surveys, other expenses necessary or incident to determining the feasibility or practicability of the enterprise, administrative expense and such other expenses as may be necessary or incident to the financing herein authorized and the construction of the works and the acquisition of all property deemed necessary or proper for the construction, operation and maintenance thereof and the placing of the works in operation and the performance of the things herein required or permitted in connection with any thereof.

(287) **Sec. 6. Revenue bonds.** Funds for the payment of the cost of the works may be provided by the issuance of revenue bonds of the municipality, the principal and interest of which bonds shall be payable solely from the special fund herein provided for such payment. All the details of such bonds shall be determined by said ordinance or by a subsequent resolution or resolutions to be passed by the legislative body.

(288) **Sec. 7. Details of revenue bonds.** Such revenue bonds shall bear interest at not more than six per cent per annum, payable annually or at shorter intervals, and shall mature as may be determined by the legislative body: Provided, however, That if all such bonds shall mature at one time, they shall mature on a date not more than one year prior to nor more than one year after the expiration of the period of usefulness of the works but not to exceed thirty years as so estimated by the state department of health, such period of usefulness to commence at the probable date of beginning the operation of the works, as estimated by the legislative body: Provided further, That if all the bonds shall not mature at one time they shall mature in annual series beginning not more than two years from such probable date of beginning of operation and ending as provided hereinabove for the maturity of bonds maturing at one time, and the sum of the interest and principal to fall due in each year shall be as nearly equal as is practicable. Such bonds may be made redeemable before maturity at the option of the municipality, to be exercised by said board, at not more than the par value thereof and a premium of three per cent under such terms and conditions as may be fixed by the

legislative body prior to the issuance of the bonds. The legislative body shall determine the form of the bonds, and the method of execution thereof and shall fix the denomination or denominations of such bonds and the place or places of payment of the principal and interest thereof, which may be at any bank or trust company within or without the state. The bonds shall contain a statement on their face that the municipality shall not be obligated to pay the same or the interest thereon except from the net revenues of the works. All such bonds shall be, and shall have and are hereby declared to have all the qualities and incidents of, negotiable instruments under the negotiable instruments law of the state. Said bonds shall be exempt from all taxation, state, county and municipal, and unless otherwise provided by law, shall be lawful investments of sinking funds of the state and municipalities and political subdivisions thereof. Said bonds may be issued beyond the general limits of the bonded indebtedness prescribed by law, and shall not be included in the amount of bonds which the city or village may be authorized to issue under any statute or charter. Provision may be made for the registration of any of the bonds in the name of the owner as to principal alone. The legislative body may sell the bonds in such manner as it may determine to be for the best interests of the municipality, but not at a price so low as to require the municipality to pay more than six per cent interest on the amount received therefor, computed with relation to the absolute maturity of the bonds in accordance with standard tables of bond values: Provided, That before any bonds shall be sold a notice shall be published in the same newspaper and for the same length of time provided by section seven of act two hundred seventy-three, public acts of nineteen hundred twenty-five, compiled laws of nineteen hundred twenty-nine, for advertising sale of bonds, such notice to be in substantially the following form:

"On or before 19 the city (or village) of will receive proposals for financing the construction of a sewage disposal plant costing approximately \$ to be paid from the revenues of said plant. The financing of such plant will be awarded to the bidder presenting the plan which appears to the legislative body to be to the best interest of the municipality."

If no bids satisfactory to the legislative body are received, the bonds may thereafter be sold at private sale. If the proceeds of the bonds, by error of calculation or otherwise, shall be less than the cost of the works, additional bonds may in like manner be issued to provide the amount of such deficit and, unless otherwise provided in said ordinance or in a resolution passed prior to the issuance of the bonds first issued or in the trust indenture hereinafter authorized, shall be deemed to be of the same issue and shall be entitled to payment from the same fund, without preference or priority of the bonds first issued. No such bonds shall be issued unless the necessity and amount thereof shall be approved by the state department of health. Prior to the preparation of the definitive bonds the legislative body may under like restrictions issue temporary bonds with or without coupons, exchangeable for definitive bonds upon the issuance of the latter. No such bonds shall be issued unless authorized by a three-fifths vote of the electors voting thereon at an election called and held in the manner hereinbefore set forth.

(289) Sec. 8. **Additional bonds of a same standing.** The legislative body may provide, by said ordinance or by resolution passed before the issuance of the bonds, or in the trust indenture hereinafter referred to, that additional bonds not exceeding thirty-three and one-third percent of the face amount of the bonds which shall be issued to pay the cost of the works may thereafter be authorized and issued, at one time or from time to time, under such limitations and restrictions as may be set forth in said ordinance or such resolution or trust indenture, for the purpose of extending, improving or bettering the works when deemed necessary in the public interest, such additional bonds to be secured and be payable from the revenues of the works equally with all other bonds issued pursuant to said ordinance without preference or distinction between any one bond and any other bond by reason of priority of issuance or otherwise. No such bonds shall be issued unless authorized by a three-fifths vote of the electors voting thereon at an election called and held in the manner hereinbefore set forth. No such additional bonds shall mature before the maturity of the bonds theretofore issued: Provided, however, That if the bonds theretofore issued mature at different dates, a substantially proportionate amount of the additional bonds may fall due on the same or subsequent dates. It shall be lawful to provide in said ordinance or resolution or indenture that no additional bonds shall be issued without the consent of the purchasers of the bonds first issued or their successors, assigns or nominees.

(290) Sec. 9. **Lien upon bond proceeds.** All moneys received from any bonds issued pursuant to this act shall be applied solely to the payment of the cost of the works or to the sinking fund and there shall be and hereby is created and granted a lien upon such moneys, until so applied, in favor of the holders of the bonds or the trustee hereinafter provided for.

(291) Sec. 10. **Terms, conditions, covenants and trust indenture.** In the discretion of the legislative body such bonds may be secured by a trust indenture by and between the municipality and a corporate trustee, which may be any trust company or bank having the powers of a trust company within the state, but no such trust indenture shall convey or mortgage the works or any part thereof. Either the ordinance authorizing the revenue bonds or resolution fixing the details thereof or such trust indenture may contain such provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper, not in violation of law, including covenants setting forth the duties of the municipality in relation to the construction of the works and the improvement, operation, repair, maintenance and insurance thereof, and the custody, safeguarding and application of all moneys, and may provide that the works shall be contracted for, constructed and paid for under the supervision and approval of consulting engineers employed or designated by the municipality and satisfactory to the original bond purchasers, successors, assigns or nominees, who may be given the right to require that the security given by contractors and by any depository of the proceeds of bonds or revenues of the works or other moneys pertaining thereto be satisfactory to such purchasers, successors, assigns or nominees. Such indenture may set forth the rights and remedies of the bondholders and/or such trustee, restricting the individual right of action of bondholders as is customary in trust indentures secur-

ing bonds and debentures of corporations. Except as in this act otherwise provided, the legislative body may provide by ordinance, resolution or such indenture for the payment of the proceeds of the sale of the bonds and the revenues of the works to such officer, board or depository as it may determine for the custody thereof, and for the method of disbursement thereof, with such safeguards and restrictions as it may determine.

(292) Sec. 11. **Application of revenues.** At or before the issuance of any such bonds the legislative body shall by said ordinance or by resolution create a sinking fund for the payment of the bonds and the interest thereon and the payment of the charges of banks or trust companies for making payment of such bonds or interest, and shall set aside and pledge a sufficient amount of the net revenues of the works, hereby defined to mean the revenues of the works remaining after the payment of the reasonable expense of operation, repair and maintenance, such amount to be paid into said sinking fund at intervals to be determined by the legislative body prior to the issuance of the bonds, for (a) the interest upon such bonds as such interest shall fall due and (b) the necessary fiscal agency charges for paying bonds and interest and (c) the payment of the bonds as they fall due or, if all bonds mature at one time, the proper maintenance of a sinking fund sufficient for the payment thereof at such time, and (d) a margin for safety and for the payment of premiums upon bonds retired by call or purchase as herein provided, which margin, together with any unused surplus of such margin carried forward from the preceding year, shall equal ten per cent of all other amounts so required to be paid into the sinking fund. Such required payments shall constitute a first charge upon all the net revenues of the works. The legislative body may, at any time authorize such sinking fund or any part thereof to be used in the purchase of any of the outstanding bonds payable therefrom at the market price thereof, but not exceeding the price, if any, at which the same shall in the same year be payable or redeemable, and all bonds redeemed or purchased shall forthwith be cancelled and shall not again be issued. After the payments into the sinking fund as herein required the legislative body may at any time in its discretion transfer all or any part of the balance of the net revenues, after reserving an amount deemed sufficient for operation, repair and maintenance for an ensuing period of not less than twelve months, into the sinking fund or into a fund for extensions, betterments and additions to the works.

(293) **Rates or charges.** Sec. 12. **Revenues of the works.** The legislative body shall establish just and equitable rates or charges, subject to the laws of the state, for the use of and the service rendered by said works, to be paid by the owner of each lot or parcel of land that is connected with and uses such works by or through any part of the sewerage system of the city or village, and may change and readjust such rates or charges from time to time: Provided, however, That such rates or charges shall be sufficient in any year for the payment of the proper and reasonable expense of operation, repair, replacements and maintenance of the works and for the payment of the sums herein required to be paid into the sinking fund. Revenues collected pursuant to this section shall be deemed the revenues of the works. No such rates or charges shall be established until after a public hearing, at which all the users of the works and owners of property served or to be served thereby and others

interested shall have opportunity to be heard concerning the proposed rates or charges. After the preliminary schedule fixing and classifying such rates or charges shall be prepared, and before the same is finally adopted, notice of such hearing, setting forth the proposed schedule of rates or charges, shall be given by one publication in a newspaper published in the municipality if there be such a newspaper, but otherwise in a newspaper having general circulation therein, at least ten days before the date fixed in such notice for the hearing, which may be adjourned from time to time. After such hearing such preliminary schedule, either as originally formulated or as modified or amended, shall be adopted and put into effect. A copy of the schedule of such rates or charges so established shall be kept on file in the office of the clerk of the municipality and shall be open to inspection by all parties interested. The rates or charges so established for any class of users or property served shall be extended to cover any additional premises thereafter served which fall within the same class, without the necessity of any hearing or notice. Any change or readjustment of such rates or charges may be made in the same manner as such rates or charges were originally established as hereinabove provided: Provided, however, That if such change or readjustment be made substantially pro rata as to all classes of service no hearing or notice shall be required. If the service charge so established shall not be paid when due, the amount thereof may be recovered by the municipality in an action of assumpsit or the amount of said charge may be certified to the tax assessor and assessed against the lot or parcel of land upon which is situate the premises served and collected or returned in the same manner as municipal taxes against real estate are certified, assessed, collected and returned, and shall be a lien upon such lot or parcel of land coordinate with the lien of such municipal taxes from the time of certification to the tax assessor.

(294) Sec. 13. **The municipality liable to payment of charges.** The municipality shall be subject to the charges and rates established as hereinabove provided, for services rendered the municipality, and shall pay such rates or charges when due and the same shall be deemed to be a part of the revenues of the works as herein defined, and be applied as herein provided for the application of such revenues.

(295) **Services to other municipalities and political subdivisions and to private corporations.** Sec. 14. Services to other municipalities and political subdivisions, and to private corporations. Any municipality operating or proposing to operate sewage disposal works under this act (in this section called the owner) is hereby authorized to contract with 1 or more other cities, villages or political subdivisions within the state, and with profit and non-profit corporations (in this section called the lessee), and such lessees are hereby authorized to enter into such contracts with such owners, for the use of such works by such lessees and their inhabitants, but only to the extent of the capacity of the work without impairing the usefulness thereof to the owners, upon such terms and conditions as may be fixed by the contracting parties: Provided, however, That no such contract shall be made in violation of the provisions of any ordinance or of any resolution authorizing bonds hereunder or in violation of the provisions of said trust indenture. The legislative body of the lessee, in case of a city, village or political subdivision, shall have power to establish, change and adjust rates and charges for the service

rendered therein by the works against the owners of premises served in the manner and subject to the conditions hereinabove provided for establishing, changing and adjusting rates and charges for the service rendered in the municipality by which the works are constructed, except that the aggregate of such rates or charges shall be sufficient to pay the rental price to be paid by the lessee and any proper incidental expense, and such rates or charges shall be collectible and shall be a lien as herein provided for rates and charges made by the owner. The necessary connecting trunk lines and appurtenant works for connecting the works of the owner with the sewage system of the lessee shall be constructed by the owner and/or the lessee upon such terms and conditions as may be set forth in said contract, and the cost or that part of the cost thereof which is to be borne by the owner may be paid as a part of the cost of the works from the proceeds of bonds issued under this act unless otherwise provided by said ordinance, resolution or trust indenture prior to the issuance of the bonds. The income received by the owner under any such contract shall, unless otherwise provided in said ordinance, resolution or trust indenture, be deemed to be a part of the revenues of the works as in this act defined and be applied as herein provided for the application of such revenues.

Am. 1943, Act 10.

(296) Sec. 15. **Acquisition of encumbered property.** No property shall be acquired under this act upon which any lien or other encumbrance exists, unless at the time such property is acquired a sufficient sum of money be deposited in trust to pay and redeem such lien or encumbrance in full.

(297) Sec. 16. **Additional bonds constituting a junior charge.** Nothing herein contained shall prevent the issue of additional bonds from time to time, and such bonds are hereby authorized to be issued in accordance with this act: Provided, however, That all bonds thereof shall be authorized by a vote of three-fifths of the electors voting thereon at an election called and held in the manner hereinbefore set forth, and shall be subordinated to bonds authorized for the construction of the works pursuant to section six hereof in respect to the application of revenues to such additional issues, except as otherwise provided by section eight hereof.

(298) Sec. 17. **Action by trustee and bondholders.** Any holder of any of such bonds or any of the coupons attached thereto, and the trustee, if any, except to the extent the rights herein given may be restricted by said ordinance or by resolution passed before the issuance of the bonds or by the trust indenture, may, either at law or in equity, by suit, action, mandamus or other proceeding protect and enforce any and all rights granted hereunder or under such ordinance, resolution or trust indenture and may enforce and compel performance of all duties required by this act or by such ordinance, resolution or trust indenture to be performed by the municipality issuing the bonds or any board or officer thereof, including the making and collecting of reasonable and sufficient charges and rates for services rendered by the works. If there be any failure to pay the principal or interest of any of the bonds on the date therein named for such payment, any court having jurisdiction of the action may appoint a receiver to administer the works on behalf of the municipality

and the bondholders and/or trustee, except as restricted by said ordinance, resolution or trust indenture, with power to charge and collect rates sufficient to provide for the payment of the expenses of maintenance, operation and repair and also to pay any bonds and interest outstanding and to apply the revenues in conformity with this act and the said ordinance, resolution and/or trust indenture.

(299) Sec. 18. **Authority in addition and not in derogation of other powers.** The authority hereby given shall be in addition to and not in derogation of any power existing in any city or village under any statutory or charter provisions which it may now have or hereafter adopt.

(300) Sec. 19. **No additional proceedings required.** This act shall, without reference to any other statute or to any charter, be deemed full authority for the construction, maintenance, operation and repair of the works herein provided for and for the issuance and sale of the bonds by this act authorized, and shall be construed as an additional and alternative method therefor and for the financing thereof, and no petition or election or other or further proceeding in respect of the issuance or sale of bonds under this act and no publication of any resolution, ordinance, notice or proceeding relative to the issuance or sale of such bonds shall be required except such as are prescribed by this act, any provisions of the general laws of the state or of any charter to the contrary notwithstanding: Provided, however, That all functions, powers and duties of the department of health, the department of conservation and the stream control commission of the state shall remain unaffected by this act.

(301) Sec. 20. **Liberal construction.** This act being necessary for the public health, safety and welfare, it should be liberally construed to effectuate the purposes thereof.

(302) Sec. 21. **Provisions of this act separable.** The sections and provisions of this act are separable and are not matters of mutual essential inducement, and it is the intention to confer the whole or any part of the powers herein provided for, and if any of the sections or provisions or parts thereof is for any reason illegal, it is the intention that the remaining sections and provisions or parts thereof shall remain in full force and effect.

Garbage and Sewage Disposal Plants

An Act authorizing counties, cities and villages, either individually or jointly by agreement, to provide a sanitary means of disposing of the garbage, sewage and night soil thereof: to charge owners or occupants of premises therefor: to borrow money and issue bonds to own, acquire, construct, equip, operate and maintain intercepting sewers and sewage disposal plants, and garbage disposal plants, and to repeal act number two of the extra session of nineteen hundred twenty-six, and any other acts or parts of acts inconsistent herewith.

[Act 320, P. A. 1927.]

The People of the State of Michigan enact:

(303) **§ 2466 Power to construct disposal plants; property powers, rights.** Section 1. Any county, city or village in this state, either individually or jointly by agreement, is hereby authorized to own, acquire, construct, equip, operate and maintain either within or without

the statutory or corporate limits of such governmental agencies or municipalities, intercepting sewers, including pumping stations, a plant or plants for the treatment, purification and disposal in a sanitary manner, approved by the state department of health, of the liquid and solid wastes, sewage and night soil and garbage of such governmental agencies and municipalities. They shall have authority to acquire by gift, grant, purchase or condemnation necessary lands therefor, either within or without the statutory or corporate limits of such governmental agencies or municipalities. For the purpose of acquiring property for the uses herein mentioned such governmental agencies or municipalities may invoke and shall have all the rights, powers and privileges granted to "public corporations" under the provisions of act number one hundred forty-nine of the public acts of nineteen hundred eleven, being sections three hundred fifty-three to three hundred seventy-three inclusive of the compiled laws of nineteen hundred fifteen as amended, and which shall be in addition to any powers granted by such governmental agencies by statute or municipalities by their charters.

(304) **§ 2467 Same; considered public utility; mortgage bonds, issuance, terms; referendum.** Sec. 2. Such intercepting sewers, pumping stations, sewage disposal plant and system, and garbage disposal plant and system, shall be considered a public utility within the meaning of any constitutional or statutory provision for the purpose of acquiring, purchasing, owning, operating, constructing, equipping and maintaining such intercepting sewers, pumping stations, sewage disposal plant and system, and garbage disposal plant and system. Governmental agencies or municipalities may issue faith and credit bonds or mortgage bonds therefor beyond the general limits of the bonded indebtedness prescribed by law except as hereinafter provided. Such mortgage bonds as provided in this section shall not impose any general liability upon the governmental agencies or municipalities but shall be secured only on the property and revenues as hereinafter provided of such utility including a franchise, stating the terms upon which, in case of foreclosure, the purchaser may operate the same, which franchise shall in no case extend for a longer period than twenty years from the date of the sale thereof on foreclosure. Such mortgage bonds shall be sold for not less than par, bear interest at a rate not to exceed six per cent per annum, and the total amount thereof shall not exceed sixty per cent of the original cost of the utility except as hereinafter provided. No bonds shall be issued as general obligations of the governmental agencies or municipalities except upon a three-fifths affirmative vote of the qualified electors of such governmental agencies or municipalities and except as hereinafter provided, not in excess of three per cent of the assessed valuation of the real and personal property of such governmental agencies or municipalities as shown by the last preceding tax roll. No bonds shall be issued as faith and credit bonds or mortgage bonds of the utility except upon a three-fifths affirmative vote of the legislative body of such governmental agency or municipality.

(305) **§ 2468 Supervising body; regulations; rates, collection.** Sec. 3. The legislative body of any such governmental agency or municipality or the respective legislative bodies of such governmental agencies and municipalities, who may have agreed to jointly own and operate inter-

cepting sewers or sewage treatment plants, may create a separate board or may designate certain officials of the governmental agencies or municipalities, to have the supervision and control of such intercepting sewers or sewage and garbage disposal plants. The legislative body, respective legislative bodies, or such board may make all necessary rules and regulations governing the use, operation, and control thereof. The legislative body or respective legislative bodies may establish just and equitable rates or charges to be paid to them for the use of such disposal plant and system by each person, firm or corporation whose premises are served thereby, and such rates or charges may be certified to the tax assessor and assessed against the premises served, and collected or returned in the same manner as other county or municipal taxes are certified, assessed, collected and returned.

Am. 1939, Act 267.

(306) **§ 2469 Mortgage bonds, manner of payment; sinking fund.** Sec. 4. Bonds which are issued and secured by a mortgage on the utility as hereinbefore provided shall not be a general obligation of the governmental agencies or municipalities, but shall be paid only out of revenues received from the service charges as provided in the preceding section, or from a sale of the property and franchises under a foreclosure of the mortgage. If a service rate is charged, to be paid as herein provided, such portion thereof as may be deemed sufficient shall be set aside as a sinking fund for the payment of the interest on said bonds, and the principal thereof at maturity.

(307) **§ 2470 Granting of franchise to private corporation, contents; referendum.** Sec. 5. Governmental agencies or municipalities as herein mentioned instead of owning and operating a sewer system and sewage disposal plant, garbage collection and disposal system, as herein provided, may grant a franchise for a period not to exceed thirty years to any private corporation organized under, or authorized by the laws of this state to engage in such business, to build, construct, own and operate a sewage or garbage disposal system for the purpose of receiving and treating sewage and night soil and garbage as hereinbefore mentioned from such governmental agencies or municipalities. Such franchise may authorize the corporation to charge each person, firm or corporation owning property from which such sewage or garbage is received such a fee therefor as may be determined to be reasonable by the public utilities commission of this state, upon proper application made either by such corporation, governmental agencies or municipalities, and after a hearing thereon. Such franchise may also grant to the corporation the right and privilege to lay all such necessary intercepting and other sewers and connecting pipes in the streets and public alleys of the governmental agencies or of the municipalities as may be necessary to receive and conduct the sewage to the disposal plant and under such reasonable rules, regulations and supervision as may be established by the governmental agencies or the municipalities. Any such franchise shall be void unless approved by three-fifths of the electors of such governmental agencies or municipalities voting thereon at any general or special election.

(308) **§ 2471 Power to contract with private corporation, terms.** Sec. 6. Any such governmental agencies or municipalities may enter into a contract with any corporation organized under or authorized by

the laws of this state to engage in the business herein mentioned, to receive and treat in the manner hereinbefore mentioned the sewage, night soil and garbage thereof. Such contract may authorize the corporation to charge the owners of the premises served such service rate therefor as the public utilities commission of this state may determine to be just and reasonable, or the governmental agencies or municipalities may contract to pay the said corporation a flat rate for such service, and pay therefor out of their general fund or assess the owners of the property served a reasonable charge therefor to be collected as hereinbefore provided and paid into a fund to be used to defray such contract charges.

(309) **§ 2472 Bonds, authorized issuance, terms; sinking fund; power of taxation.** Sec. 7. Whenever a court of competent jurisdiction in this state shall have ordered the installation of a sewage or garbage disposal system in any of the governmental agencies or municipalities herein mentioned, and the plans therefor shall have been prepared, and approved by the state commissioner of health, the legislative body or the respective legislative bodies thereof shall have authority to issue and sell the necessary bonds for the construction and installation thereof, including the disposal plant, and such intercepting and other sewers as may be necessary to permit the effective operation of such system; such bonds to draw interest at not to exceed six per cent per annum, and payable in not to exceed thirty years from the date of issuance; the legislative body or the respective legislative bodies to determine the denomination of said bonds and the date, time and manner of payment. The amount of such bonds either issued or outstanding shall not be included in the amount of bonds which the said governmental agencies or municipalities may be authorized to issue under any statutes of this state or charters. Governmental agencies or municipalities issuing bonds hereunder in excess of the limit of the authorized bonded indebtedness fixed by statutes or charters, the principal and interest of which are not to be paid out of funds created from service charge, as hereinbefore provided, may raise such a sum annually by taxation as the legislative body or respective legislative bodies may deem necessary to pay interest on such bonds, and to create a sinking fund to pay the principal thereof as it falls due. Such annual amount may be in excess of the authorized annual tax rate fixed by the statutes or charters. Except as otherwise provided in this act, all bonds issued hereunder shall be issued and sold in conformity to the provisions of act number two hundred seventy-three of the public acts of nineteen hundred twenty-five or as it may be hereafter amended.

(310) **§ 2473 Installation order, record by legislative body; plans submitted to commissioner of health; bonds.** Sec. 8. Whenever an order shall have been made by any court of competent jurisdiction, as hereinbefore provided, the fact that such order was issued shall be recited in the official minutes of the legislative body or the respective legislative bodies. The said body or bodies shall thereupon require that plans and specifications be prepared of such sewage or garbage disposal system, including the necessary storm and sanitary sewers, which plans when submitted and approved by the legislative body or respective legislative bodies shall be submitted thereafter to the state commissioner of health for his approval. If such plans are so approved, the legislative body or respective

legislative bodies shall thereupon authorize the issuance and sale of the necessary bonds to establish the proposed system.

(311) **§ 2474 Act construed.** Sec. 9. The authority hereby given shall be in addition to and not in derogation of any power existing in any of the counties, cities or villages under any statutory or charter provisions which they may now have or may hereafter adopt.

(312) **§ 2475 Institution of proceedings.** Sec. 10. Proceedings under this act shall be taken only in a court of competent jurisdiction in the county in which the proposed interceptors sewage or garbage disposal plants are to be constructed.

Sec. 11. Repeals act number two of the public acts of the extra session of nineteen hundred twenty-six and other inconsistent acts.

(313) **§ 2477 Inter-municipality contract power.** Sec. 12. Whenever it is deemed expedient for the safety and health of the people, governmental agencies and municipalities are hereby authorized to enter into agreement with each other to raise money, issue bonds to erect and maintain intercepting sewers and sewage treatment plants.

(314) **§ 2478 Same; approval.** Sec. 13. Whenever governmental agencies and municipalities shall desire to act under the provisions of this law, the relationship established between such governmental agencies and municipalities shall be fixed by contract and such contracts may be made by governmental agencies and municipalities under the provisions of this act in a manner and to the extent that natural persons might make contracts for like purposes. Such contracts before becoming operative shall be approved by a vote of the majority of the members elect of each of the respective legislative bodies of the governmental agencies and municipalities operating under the provisions of this act.

(315) **§ 2479 Severing clause.** Sec. 14. If any clause, sentence, paragraph, section or part of this act shall for any reason be adjudged or decreed to be invalid by any court of competent jurisdiction, such judgment or decree shall not affect, impair or invalidate the remainder of this act, but shall be confined in its operation to the clause, sentence, paragraph, section or part hereof directly involved in the controversy in which said judgment or decree shall have been rendered.

Permission for Construction of Garbage or Sewage Treatment Works

An Act to prevent the acquisition, construction, operation, maintenance or building of garbage disposal plants, garbage reduction plants, sewage disposal tanks, settling basins, apparatus or screens for the treatment of sewage matter in certain cities and villages without having first procured permission from said cities or villages; to provide for the enforcement of this act; to declare such acquisition, construction, operation, maintenance, or building, a nuisance, in certain cases; to provide a manner in which the consent of said cities and villages may be granted, and to provide a penalty for the violation of this act.

[Act 261, P. A. 1927.]

The People of the State of Michigan enact:

(316) **§ 2482 Disposal plants; power to prevent construction.** Section 1. All incorporated cities and villages of this state shall have the power to prevent any other municipal or public corporation from acquir-

ing, erecting, owning, operating, maintaining, managing, controlling or building garbage disposal plants, garbage reduction plants, sewage disposal tanks, settling basins, apparatus or screens for the treatment of sewage matter within the corporate limits of such cities or villages.

See *Jones v. City of Detroit*, 277/273; *Bacon v. City of Detroit*, 282/150.

(317) **§ 2483 Required permit.** Sec. 2. It shall be unlawful for any individual, firm, private, public or municipal corporation to acquire, erect, own, operate, maintain, manage, control or build garbage disposal plants, sewage disposal plants, settling basins, apparatus or screens for the treatment of sewage matter within the corporate limits of any other city or village, without first obtaining a permit from said city or village in accordance with the provisions of this act.

(318) **§ 2484 Same; procedure to secure; disposition of sewage by municipality.** Sec. 3. Any public or municipal corporation desiring such permit shall make application for the granting thereof unto the legislative body of any city or village in which said work or plant is proposed to be located. Such application shall state the exact property within the city limits to be devoted to said plant and shall state the kind of work or plan contemplated and the size and capacity thereof and shall render such other information to the said legislative body as the latter may require. The proposal shall, in manner and form as said body may provide, be submitted to a vote of the electors of said city or village at the next general or special election, and if the granting of the permit be approved by a majority of the electors voting therefor, then the permit shall be granted: Provided, however, That nothing in this act shall prevent any city or village from disposing of its own sewage matter within its own corporate limits or in territory outside thereof which is not within the limits of any other incorporated city or village without obtaining a permit therefor as in this act required, or in any such plants and works actually in operation at the time of the passage of this act or enlargements thereto.

(319) **§ 2485 Declaration of nuisance; action.** Sec. 4. Any building, plant or work erected, constructed or carried on in violation of any [of] the provisions of this act is hereby declared to be a nuisance and an action for the abatement of such nuisance may be brought in the name of the people of the state of Michigan, by the attorney general of the state of Michigan, or by any one or more of the property owners within the city or village in which said building, plant, or work is attempted to be placed in violation of this act.

(320) **§ 2486 Act construed.** Sec. 5. Nothing in this act shall in any way impair, impeach, or in any way affect any right of action in law or in equity that may now exist in addition to the provisions of this act for the prevention of building plants or works, named in this act, nor shall this act in any way affect the right of any city or village to enact ordinances for their protection against such building plants or works in this act named.

Use of County Drains

[Extract from Chap. 17, Act 316, P. A. 1923.]

(321) **§ 4974 Use of county drains for sewage disposal; proceedings for construction of disposal plant; apportionment of cost.** Sec. 5. From and after 3 years from the effective date hereof, it shall be unlawful for any municipality, industry, public or private corporation, individual, partnership association, or any other entity to continue to discharge or permit to be discharged into any county drain or intercounty drain of the state any sewage or waste matter capable of producing in said drain or drains detrimental deposits, objectional odor nuisance, injury to drainage conduits or structures, or such pollution of the waters of the state receiving the flow from said drains as to injure livestock, destroy fish life or be injurious to public health: Provided, That nothing herein contained shall be construed to prevent the conveyance of sewage or other waste through drains or sewers that will not cause the above named injuries. Disposal plants, filtration beds and other mechanical devices as will properly purify the flow of any drain may be constructed and become a part of any established drain, the cost of construction thereof to be paid for in the same manner as other drainage costs as in this act provided. Such plants, beds or devices may be described in the petition for the location, establishment and construction of drains or in the petition for the cleaning, widening, deepening, straightening or extending of drains, or in the application for the laying out of a drainage district. Petitions for the construction of such plants, beds and devices for use on any established drain may be filed by the same persons and shall be received and all proceedings had thereon in the same manner as other petitions for any drainage construction under this act. If the state commissioner of health shall determine that sewage carried by any existing county drain constitutes a menace to the public health, and that the cleaning out of such drain or the construction of disposal plants, filtration beds or other mechanical devices to purify the flow of such drain is necessary to public health, he may file his findings with the stream control commission, who may file a petition with the drain commissioner of the county in which such drain is situated. The said petition may call for the construction of said disposal plant or other appropriate measures by which the said nuisance or menace to health may be abated. A copy of the findings of the state commissioner of health shall be attached to said petition which shall require no other signature than that of the stream control commission under their name of office but shall otherwise conform to the law regulating such petitions. Plans and specifications for the construction as part of a drain of any disposal plant, filtration bed or other mechanical device to properly purify the flow of such drain shall be prepared, subject to the approval of the state commissioner of health, and shall be filed with the drain commissioner. Contracts for such construction shall be let in the manner provided in chapter 8 of this act. To meet the cost of such construction the drain commissioner shall apportion the per cent of such cost among the several parcels of land, highways and municipalities benefited thereby. The costs and charges for maintenance shall be apportioned and assessed each year. In

case the apportionment shall be the same as the last recorded apportionment, no day of review shall be necessary, but in case the apportionment shall be changed notice of a day of review shall be given to each person or municipality whose percentage has been raised. Land may be acquired as a site for the construction of such plants, beds and devices and releases thereof may be obtained in the same manner as other lands for right of way as in this act provided. It shall be unlawful to connect sewage or other waste to county or inter-county drains except with the written approval of the appropriate commissioner endorsed upon a written application for such service. The commissioner shall keep a record of applications made and his action thereon. The commissioner is hereby authorized to reject applications for or require such necessary modification in requested applications for sewer connections to county drains as to attain the objectives set forth in this section.

Failure to comply with any of the provisions of this section shall, upon conviction thereof, subject the offender to the penalty or penalties described in section 2 of this chapter.

Am. 1931, Act 318; 1941, Act 304.
Sec. 5a, added 1939, Act 179, and amended by Act 128, P. A. 1941, empowers the state health commissioner to make recommendations relative to inoperative or improperly operated disposal or filtration plants.

Sanitary Conditions in Depots and Trains

An Act to provide for sanitary conditions in railroad passenger coaches and in railroad depots and vessels.

[Act 210, P. A. 1909.]

The People of the State of Michigan enact:

Section 1. Repealed by Act 328, P. A. 1931, the "penal code".

(322) Sec. 476. **Expectorating on floors of railroad cars, passenger stations, etc.**—Any person who shall expectorate upon the floor, platform or the interior furnishings, except cuspidors, of a steam railroad, passenger or street railway car, or motor bus or upon the floor, furnishings, registers or radiators of any passenger station or public waiting room, shall be guilty of a misdemeanor: Provided, however, That no person shall be prosecuted under the provisions of this section unless its provisions are posted in a conspicuous place in such cars, buses, stations and public waiting rooms, and suitable cuspidors are furnished.

This section of Act 328, P. A. 1931, supersedes section one of above act.

(323) **§ 6680 Temperature; ventilation.** Sec. 2. It shall be the duty of railway companies to see that every passenger coach is kept at a uniform temperature, not less than sixty nor more than seventy degrees, and that provision for ventilation shall be constantly in use to provide a sufficient amount of fresh air for the passengers.

(324) **§ 6681 Drinking water; tanks, cleaning.** Sec. 3. Every passenger coach shall be provided with a supply of good wholesome drinking water. When ice is used to cool the water, it shall be kept in a separate receptacle. These tanks shall be thoroughly cleaned at the terminus of every trip, and shall be kept constantly covered.

(325) **§ 6682 Toilets and closets, cleaning.** Sec. 4. All toilet rooms, water closets, urinals and toilet appliances in railway coaches and depots are to be scrubbed with soap and hot water and disinfected with an approved disinfectant each day. All closets (outhouses) at railway stations shall be kept clean and in good repair to be suitable at all times for the use of the traveling public. The vaults shall receive a daily treatment of fresh lime or other approved disinfectant, and the contents removed at least once each month.

(326) **§ 6683 Coaches, cleaning; exposed passengers, report, contents.** Sec. 5. Every passenger coach while in regular use, shall be thoroughly cleansed and disinfected at least once each month. If a car becomes infected by being occupied by a person having a dangerous communicable disease, it shall not again be opened for the reception of other passengers than the ones already in it; and at the end of the trip it shall be disinfected before it is again used for passenger traffic. In cases of public exposure of this kind on railway trains, it shall be the duty of the railway authorities to report the facts to the state board of health, giving the names and destination of each exposed passenger that occupied the same car as the infected person.

(327) **§ 6684 Urinals and closets; sterilization, approval.** Sec. 6. Every passenger coach operating in this state, and every vessel navigating upon the rivers and inland lakes of the state, or entering her lake harbors, shall be provided with urinals and closets of such form as will secure the sterilization of all discharges entering them; and the same shall be known as the "Aseptic closet and urinal." The form of the urinal and closet, including the method of sterilization, shall have the approval of the state board of health before adoption.

(328) **§ 6685 Penalty.** Sec. 7. In case any railroad or vessel company operating in this state, shall neglect or refuse to carry out the provisions of the preceding sections, it shall be liable to a penalty of one hundred dollars and cost of prosecution for each and every passenger train so run, to be sued for in the name of the people of the state of Michigan.

Public Drinking Cups

[Extract from Act 328, P. A. 1931.]

(329) **Sec. 475. Drinking cups at public drinking fountains**—It shall be the duty of every person within this state, maintaining any public drinking fountain, water cooler or tank, or any other device dispensing water for public drinking purposes, other than a sanitary fountain, to provide for supplying individual drinking utensils by sale or free distribution; and if by sale, at a cost not exceeding one cent for each individual utensil. In case there shall be no facilities for furnishing as aforesaid individual drinking utensils at any such fountain, water cooler, tank or other device, the person so maintaining the same shall post in close proximity thereto a placard designating the place at which or the person from whom such individual drinking utensils may be procured.

Any person violating any of the provisions of this section shall be guilty of a misdemeanor.

The above section supersedes Act 93, P. A. 1913 (§ § 6686-87, C. L. 1929) which was repealed by Act 328 of 1931.

Sale of Insanitary Mattresses

An Act to provide for the branding and labeling of mattresses and comforts, and to provide against the use of insanitary, unhealthy, old or second-hand material in the manufacture of mattresses and comforts, and to provide against the sale of mattresses or comforts containing such insanitary, unhealthy, old or second-hand materials.

[Act 54, P. A. 1917.]

The People of the State of Michigan enact:

(330) **§ 8827 Misbranded mattress or comfort; manufacture and sale.** Section 1. No person, corporation or firm, shall within the state, manufacture for sale, knowingly offer for sale, sell, deliver, or have in his possession with intent to sell or deliver, any mattresses or comforts which are misbranded or mislabeled, within the meaning of this act.

(331) **§ 8828 Brand; requirement.** Sec. 2. Mattresses and comforts shall be branded or labeled, as hereinafter provided, before being exposed for sale, and shall not be exposed without such brand or label.

(332) **§ 8829 Same; language, contents.** Sec. 3. The brand or label required by the next preceding section shall contain in plain English lettering, a statement of the materials used in the manufacture of such mattresses or comforts, giving the total weight and the percentage of each material used in all cottons, felt, wool, kapock, and hair mattresses. Percentage of each material used must be given on other mattresses. Such brand or label shall be placed upon each mattress or comfort.

(333) **§ 8830 Same; form.** Sec. 4. Such label shall be in the form of cloth or clothlined tag, to be sewed or otherwise securely attached to each article and placed securely upon the bale, box or crate in which such mattresses and comforts are packed, shipped or exposed for sale.

(334) **§ 8831 Same; location.** Sec. 5. Such brand or label shall be placed outside of and upon the most conspicuous part of the finished article and its box, crate or covering.

(335) **§ 8832 Mattress or comfort; unlawful possession; destruction of brand.** Sec. 6. A person dealing in mattresses or comforts as described in this act, shall not have them in possession for the purpose of sale, or offer them for sale, without the brand or label required by this act, or remove, conceal or deface the brand or label thereon.

(336) **§ 8833 Same; clean materials.** Sec. 7. No person within this state, shall use, either in whole or in part, in the manufacture of mattresses or comforts, any cotton, or other materials which have been used for any purpose whatever, unless the same shall have been so cleaned, sterilized or renovated as to become thoroughly safe and healthful, nor shall any person within this state sell, offer for sale or give away, any such mattresses or comforts.

(337) **§ 8834 Same; defined.** Sec. 8. A mattress or comfort within the meaning of this act, shall include any quilted bed or pad, tufted or not tufted, stitched or otherwise finished bed or pad, stuffed with excelsior, cotton, jute, hair, husks, sea moss, bamboo, wool, fibre, kapock, felted cotton, felt, shoddy, African fibre, Louisiana tree moss, or other material used for this purpose, sterilized feathers excepted.

(338) **§ 8835 Felt, felted cotton; defined.** Sec. 9. If labeled felt or felted cotton, it is understood that the cotton or material has all been carded in layers or sheets by a Garnett or cotton felting machine.

(339) **§ 8836 Penalty.** Sec. 10. A person, corporation or firm, who sells, offers for sale, gives away, manufactures, or causes to be manufactured with intent to sell, any mattresses or comforts which are not branded or labeled, pursuant to the provisions of this act, or who falsely brands or labels any mattresses or comforts, or who knowingly fails or neglects to state the true and actual quantity and quality of the materials used in any mattress or comfort, or otherwise violates any provisions of this act, shall upon conviction thereof be fined not less than twenty-five dollars nor more than five hundred dollars or imprisoned in the county jail not more than six months, or both.

(340) **§ 8837 Enforcement.** Sec. 11. When any peace officer, inspector, health officer or any other person has reason to believe that any of the provisions of this act are being violated, or that used material has been used again without being so cleaned, sterilized or renovated as to become thoroughly safe and healthful, he shall fully advise the prosecuting attorney of the district and said prosecutor shall without delay proceed to enforce this act.

Sec. 12 repeals inconsistent acts.

CHAPTER V.—HOSPITALS AND SANATORIUMS.

State Sanatorium

(341) For the act establishing the state sanatorium, at Howell, for the care and treatment of persons afflicted with tuberculosis, see Act 254, P. A. 1905 (§§ 6999-7021, C. L. 1929), as amended by Act 211, P. A. 1937, and Act 176, P. A. 1943.

Act 115, P. A. 1929, as amended by Act 186, P. A. 1931, abolishes the board of trustees and creates the tuberculosis sanatorium commission.

Tuberculosis Sanatoria in Counties over 30,000 Population

An Act to protect and promote the public health and welfare, and to provide for the construction, maintenance and operation of hospitals and sanatoriums for the treatment of tuberculosis; and to make an appropriation therefor. (a)

[Act 177, P. A. 1925.]

The People of the State of Michigan enact:

(342) **§ 7044 County sanatorium; establishment, procedure; site; bed minimum.** Section 1. It shall be competent for the board of supervisors of any county in this state having a population of more than thirty thousand according to the last official census of the federal government to establish, maintain and operate a hospital or sanatorium for the treatment of tuberculosis in accordance with the provisions of this act. Said board shall designate the site on which such sanatorium shall be placed and the sum or sums of money appropriated for construction and equipment pur-

poses. Immediately upon the taking of such action by any board of supervisors subject to the provisions hereof, it shall be the duty of the clerk of the board to certify to the state commissioner of health a copy of the resolution or resolutions adopted. Thereupon it shall be the duty of said commissioner to cooperate with the board of supervisors, or with any committee thereof selected for such purpose, in the preparation or selection of plans for the building or buildings to be erected: Provided, That no sanatorium hereafter erected under the provisions of this act shall be upon lands used by or controlled by a county poor commission, or used or intended to be used as a county poor farm, and no such sanatorium shall be erected having provision and room for less than fifty beds.

(343) **§ 7045 Same; raising of moneys by taxation, disposition.** Sec. 2. The board of supervisors of any county, subject to the provisions of section one of this act, is hereby authorized and empowered to raise by taxation necessary funds for the purpose of constructing, equipping and maintaining a hospital or sanatorium for the treatment of tuberculosis. In no case shall the tax for the original construction and equipment exceed in any year one mill on each dollar of assessed valuation of said county. If deemed expedient by said board, money for construction purposes hereunder may be raised by taxation during successive years, not exceeding, however, a period of three years. All moneys raised by taxation within the county shall constitute a special fund for the construction and equipment of the sanatorium. Money raised by taxation in the county for construction purposes, and subsequently found not to be needed therefor, may be used to defray the expenses of operation and maintenance.

(344) **§ 7046 Board of trustees; members, terms, officers, powers and duties; disbursements for construction.** Sec. 3. A board of trustees for the management of any sanatorium created hereunder shall be appointed by the board of supervisors of the county in which such sanatorium is to be constructed. Said trustees shall be residents and taxpayers of the county. In the first instance, one of such trustees shall serve for a period of one year from and after the first day of January following his appointment. One shall serve for a period of two years and the third for a period of three years. Thereafter, each trustee shall hold office for a period of three years, beginning on the first day of January next ensuing and until a successor is appointed and qualifies. Each such trustee shall file his acceptance of office with the county clerk and shall also take and file with said clerk the constitutional oath of office. It shall be the duty of said board of trustees to cooperate and advise with the state health commissioner and with the board of supervisors of the county, or with any committee selected thereby, in the erection and equipment of the sanatorium. As soon as such sanatorium is completed and equipped the management and control thereof shall vest in said board of trustees, subject to the provisions of this act. Money for the construction of the sanatorium and for the purchase and installation of equipment shall be paid out by the county treasurer on the order of said board of trustees, countersigned by the chairman and clerk of the board of supervisors, or by any committee of said board selected by the board for that purpose. Said board of trustees may organize by the election of a president, a secretary and a treasurer and may adopt rules and regulations governing its procedure.

(345) **§ 7047 Joint county sanatorium; establishment, procedure; powers of supervisors.** Sec. 4. Any two or more counties within this state may cooperate for the establishment, maintenance and operation of a joint county sanatorium for the treatment of tuberculosis under the provisions of this act. The board of supervisors of any county may appoint a committee to confer with a like committee similarly chosen by the board in any other county or counties for the purpose of selecting a site for a joint sanatorium. At such meeting the committees present shall organize into a joint committee and shall select one of the members of such joint committee chairman and a second member secretary. A full report of the results of such meeting shall be made to the board of supervisors of each county concerned at the next ensuing meeting thereof. Thereupon each said board of supervisors shall have the same power to take action with reference to the establishment, maintenance and operation of such joint county sanatorium as is granted by this act with reference to the construction of a sanatorium by a single county in so far as such provisions are applicable.

(346) **§ 7048 Same; cooperation with commissioner of health.** Sec. 5. In case the boards of supervisors of two or more counties shall determine by separate action thereof that a joint sanatorium shall be constructed, it shall be the duty of each said board to appoint a committee of its members for the purpose of cooperating with the state commissioner of health and with the board of trustees of said sanatorium in the construction and equipment of the necessary building or buildings. Each board shall also select three residents and taxpayers of the county to serve as members of the board of trustees of the sanatorium. Said trustees shall be appointed for like terms and shall qualify in the same manner as is provided in section three for the appointment and qualification of trustees of a county sanatorium. It shall be the duty of the trustees so appointed to meet as soon as may be and to organize by the election of a president and secretary.

(347) **§ 7049 Same; special tax fund; expenditures.** Sec. 6. The board of supervisors of each county becoming a party to the erection of a joint sanatorium under the provisions of this act may raise in any one year for construction or maintenance purposes a sum not exceeding one mill on each dollar of assessed valuation of said county. Such tax shall be regarded as a special tax and the moneys received therefrom shall be transmitted by the treasurer of the county in which it is collected to the treasurer of the county in which the sanatorium is to be constructed. All such moneys shall be and remain in a special fund and shall be used solely for the purposes for which the tax is spread: Provided, however, That money raised for construction purposes and not needed therefor may be expended by the board of trustees for maintenance and operation. Money expended for the construction, equipment and installation of equipment of any joint county sanatorium shall be paid out by the county treasurer having such fund in charge on the order of the board of trustees of such sanatorium.

(348) **§ 7050 Construction contracts; bids.** Sec. 7. Contracts for the construction and equipping of any sanatorium to be erected under the provisions of this act shall be let by the board of trustees of said sanatorium, subject to the approval of the state commissioner of health. Such work may be let as an entirety or in sections as may be deemed most

advantageous. In all cases where the cost of construction exceeds the sum of five hundred dollars, bids shall be advertised for in one or more newspapers published and circulating within the county or counties concerned not less than two weeks prior to the date when bids are to be received. Subject to the provisions of this act, the board of trustees concerned may adopt reasonable rules and regulations concerning the manner of advertising for bids and the letting of contracts. In all cases the right to reject any and all bids presented shall be reserved. Each contract let hereunder shall provide that the work shall be done subject to the approval of the board of trustees and the state commissioner of health.

(349) **§ 7051** **Commissioner of health, rules; duty of trustees; sanatorium personnel; expenditures.** Sec. 8. The state commissioner of health is hereby authorized and directed to adopt and publish, in the same manner as rules and regulations of the state department of health are published, rules and regulations governing the operation of county sanatoriums. It shall be the duty of the board of trustees of any such sanatorium to observe such rules and regulations. Wilful failure or refusal to do so shall constitute grounds for removal. Subject to this act and to such rules and regulations, each such board of trustees shall operate the sanatorium under its charge and shall employ a medical superintendent, a suitable number of nurses, and such other employees as may be necessary and may fix the compensation thereof. Such compensation shall be paid out of the maintenance fund of the sanatorium in the same manner as the salaries of other county employees are paid. Money to defray the expenses of maintenance and operation shall be paid by the county treasurer having such fund in his custody on the warrant of the president of the board of trustees of the sanatorium, countersigned by the secretary.

(350) **§ 7052** **Admission of residents and non-residents; reports to commissioner of health; approval; reimbursement by state.** Sec. 9. Any sanatorium established hereunder shall be maintained and operated for the benefit of the residents of the county or counties establishing and maintaining the same. The board of trustees shall make regulations covering the admission and conduct of patients and may exclude any person or persons wilfully violating such regulations. Any person afflicted with tuberculosis may be admitted to the sanatorium on a certificate of the health officer of the city, village, township, county or district in which such person resides. If the facilities of the sanatorium will permit, the board of trustees may in its discretion accept patients afflicted with tuberculosis who are not residents of the county or counties establishing and maintaining the sanatorium, upon such terms and conditions as may be mutually agreed upon. On the first day of each month the board of trustees, or the medical superintendent of the sanatorium, whether organized and established under the provisions of this act or any other act or acts permitting counties to erect and maintain sanatoriums for treatment of tuberculosis, shall report to the state commissioner of health the number of patients treated during the preceding month, with such detailed information as said commissioner may require. Such reports shall show specifically the number of patients treated, with the compensation and aggregate number of weeks of such treatment. Such report shall be verified by the medical superintendent or by the president of the board

of trustees. If accepted and approved by the state commissioner of health, it shall be the duty of the latter official to certify to the auditor general that the sanatorium in question has treated without compensation patients for an aggregate specified number of days. Thereupon the auditor general shall draw his warrant on the state treasurer, in favor of the county treasurer having the funds of the sanatorium in his custody, for such an amount as will constitute compensation for such free patients on the basis of \$2.00 per day each, it being the intent hereof that the state shall contribute towards the cost of maintaining and treating free patients the sum of \$2.00 for each day of such care and treatment: Provided, That all sums due any county from the state of Michigan hereunder shall be a continuing obligation of the state and shall be paid out of any funds which may be appropriated by the legislature for that purpose.

Am. 1932 (ex. sess.), Act 18; 1933, Act 215; 1937, Act 213; 1943, Act 169.

(351) **§ 7053 Board of trustees; expenses; approval of claims; vacancies; body corporate, powers; conveyances.** Sec. 10. No member of the board of trustees of any sanatorium established and maintained hereunder shall be entitled to receive compensation for his services. Any such trustee, however, shall be reimbursed on account of any expense necessarily incurred by him in the performance of his official duties. All claims against the sanatorium shall be approved by the board of trustees thereof and paid in the manner hereinbefore indicated. Any vacancy occurring on a board of trustees shall be filled for the remainder of the term by the board of supervisors of the county represented by such trustee. Each said board shall constitute a body corporate and may sue and be sued. It may accept donations and bequests, may purchase and hold property, and make such contracts as may be necessary for the carrying out of the duties hereby imposed. All conveyances of real estate shall be taken in the name of the board of trustees in trust for the county or counties represented thereby.

(352) **§ 7054 Same; annual report to supervisors, contents; annual appropriation; tax limit; referendum on excess.** Sec. 11. Prior to the regular October session in each year of the board of supervisors of any county establishing or maintaining or assisting to establish or maintain any sanatorium hereunder, it shall be the duty of the board of trustees of such sanatorium to make and present to the board a full and detailed report of the operations during the preceding year and of the receipts and disbursements. At the same time an estimate of the funds necessary to be raised in such county for the ensuing year shall be presented. Thereupon, said board, subject to the provisions of this act, shall vote such amount as may be necessary to be raised by taxation. In the case of the joint county sanatorium, it shall be the duty of each board of supervisors concerned to vote its proportionate share of the cost and maintenance of operation during the ensuing year, as estimated and determined by the board of trustees. In case it is deemed expedient by any board of supervisors to raise in any one year either for construction purposes or for maintenance purposes an amount in excess of one mill on each dollar of assessed valuation of said county, the question of raising by taxation or borrowing such additional amounts as may be deemed necessary shall be submitted to the electors of the county at any general election or at a

special election called for that purpose. Said question shall be submitted and election held and conducted and returns thereof canvassed and declared in the same manner as is or may be provided by the general election law for the submission and determination of the question of issuing county bonds. If a majority of the electors of the county voting thereon authorize the raising of such additional sum or sums, the board of supervisors shall by resolution direct the raising of the same by taxation.

(353) **§ 7055 Inspection by commissioner of health; recommendations; non-observance of rules.** Sec. 12. The state commissioner of health either in person or by his deputy or other representative shall inspect each sanatorium constructed hereunder at such times as he may deem necessary. He may also require from the authorities in charge of such sanatorium reports from time to time concerning the operation thereof. It shall be his duty to make recommendations to the board of trustees and to the medical superintendent in charge of the sanatorium with respect to operation, treatment of patients, employees, and such other matters as affect the welfare of the patients and the general conduct of the institution. If any board of trustees, or medical superintendent, shall neglect or refuse to observe the rules and regulations of the state commissioner of health hereinbefore provided for, the state maintenance aid contemplated by section nine may in the discretion of said commissioner be withheld until such rules and regulations are complied with.

(354) **§ 7056 Counties not constructing sanatoriums; taxation in aid of other public sanatoriums.** Sec. 13. The board of supervisors of any county of this state not desiring to construct a sanatorium or hospital for the treatment of tuberculosis, is hereby authorized to raise money by taxation for the aid and assistance of any hospital or sanatorium within this state and to secure the treatment of persons afflicted with tuberculosis and may make agreements with the management or owners of any hospital or sanatorium for the treatment of indigent persons afflicted with tuberculosis. No money shall be raised, however, for the assistance of any private hospital under this section, nor to provide for the treatment of patients at any hospital or sanatorium unless said hospital or sanatorium shall be first inspected by the state commissioner of health, or by his duly authorized representative and approved by him as a proper and suitable institution for the care and treatment of patients afflicted with tuberculosis.

(355) **§ 7057 Contracts with approved sanatoriums; report to health commissioner, contents; reimbursement by state.** Sec. 14. Whenever the board of supervisors of any county shall contract with the management or owners of any hospital or sanatorium for the treatment of persons afflicted with tuberculosis and such hospital or sanatorium shall have been approved by the state commissioner of health, as provided in the preceding section, it shall be the duty of the clerk of said county, or the board of county auditors, in counties having such boards, or other legally designated authority, on the first day of each month to report to the state commissioner of health the number of patients treated at any such sanatorium or hospital during the preceding month on contract with said county, with such detailed information as said commissioner may require. Such reports shall show specifically the number of patients treated, any compensation paid by the county therefor, and the aggregate

number of days of such treatment. Such report shall be verified by the officer or officers making the same. Upon receipt and approval of such report by the state commissioner of health, it shall be the duty of the latter official to certify to the auditor general that the county in question has caused to be treated, without compensation to it, patients, for an aggregate specified number of days based upon said report. Thereupon the auditor general shall draw his warrant on the state treasurer in favor of the county treasurer of such county for such an amount as will constitute compensation for such patients on the basis of \$2.00 per day each, it being the intent hereof that the state shall contribute towards the cost of maintaining and treating such patients the sum of \$2.00 for each day of such care and treatment: Provided, however, That the total extent of such contribution shall in no case exceed the amount of the appropriation made for such purpose by the legislature for the fiscal year ending June 30, 1944 and the auditor general shall not be required to draw any warrants as herein provided in favor of the county treasurer after the time when such appropriation shall have been exhausted: And provided further, That if the sum appropriated by the legislature is not sufficient to pay all demands, then the funds appropriated shall be paid pro rata to the counties and cities entitled thereto, and such contributions shall be made in accordance with rules and regulations promulgated by the state commissioner of health for the purpose of protecting the rights of all such counties and cities in such fund.

Am. 1931, Act 101; 1937, Act 213; 1948, Act 169.

Public Hospitals With Tuberculosis Department

An Act to enable counties to establish and maintain public hospitals, levy a tax and issue bonds therefor, borrow money and issue bonds and notes therefor, elect hospital trustees, maintain training schools for nurses, provide suitable means for the care of tuberculous persons, and to make possible the ultimate establishment of an adequate supply of hospitals. (a)

[Act 350, P. A. 1913.]

The People of the State of Michigan enact:

(356) **§ 7063 Establishment of county public hospital; petition, election.** Section 1. Any county may establish and maintain a public hospital in the following manner: A petition shall first be presented to the board of supervisors signed by five per cent of the qualified electors of the county, asking that bonds be issued and an annual tax levied for the purpose of raising money to be used to establish and maintain a public hospital in the county. Such petition shall state the place where it is proposed to locate such hospital and the maximum amount of money proposed to be expended to purchase, lease or build the same. Upon receipt of such petition, the board of supervisors shall order, submitted to the qualified electors of the county, the question of issuing bonds in the amount of dollars and levying a tax of mills on the assessable property of the county, to pay said bonds. The money so raised to be used to purchase real estate for a hospital site and to construct and maintain

(a) Title Am. 1933, Act 219.

buildings thereon, or to lease the same for hospital purposes. Such proposition shall be submitted to the qualified electors at the next regular election thereafter or at a special election to be called for that purpose. In either case, a notice shall be given ninety days prior to the election, setting forth the text of the petition, the amount of bonds proposed to be issued and the amount of the mill tax proposed to be levied. Such notice shall be published in one or more newspapers published and circulated in the county, if any are published therein and if none are published therein, then the notice shall be published in some newspaper of general circulation therein. One or more written or printed copies of the notice shall also be posted in each voting precinct in the county.

(357) **§ 7064 Same; election procedure; authorizing vote; bonds; tax levy; expenditures.** Sec. 2. Said election shall be held at the usual places in such county for the election of county officers, the vote to be canvassed in the same manner as that for county officers. The ballots to be used at any election at which the said question is submitted shall be printed with a statement substantially as follows:

Shall the county of _____ issue bonds in the sum of _____ dollars and levy a _____ mill tax to provide for the payment of same for the purpose of purchasing, leasing or constructing, as the case may be, a public hospital, and to provide for the maintenance of same?

Yes. ;

Shall the county of _____ issue bonds in the sum of _____ dollars and levy a _____ mill tax to provide for the payment of same for the purpose of purchasing, leasing, or constructing, as the case may be, a public hospital, and to provide for the maintenance of same?

No. .

If a majority of the votes cast at such election be in favor of the proposition so submitted, the board of supervisors shall issue the bonds as hereinafter provided and shall levy the tax so authorized, to be collected in the same manner as other taxes are collected and credited to the hospital fund, and it shall be paid out on the order of the hospital trustees for the purposes authorized by this act and for no other purposes whatever.

(358) **§ 7065 Board of trustees; qualifications, temporary appointment, election, terms.** Sec. 3. Should a majority of all the votes cast upon the question be in favor of establishing such county public hospital, the board of supervisors shall proceed at once to appoint seven trustees chosen from the citizens at large with reference to their fitness to such office, three of whom may be women, all residents of the county, not more than three of said trustees to be residents of the city, town or village in which said hospital is to be located, who shall constitute a board of trustees for said public hospital. The said trustees shall hold their offices until the next following November election, when seven hospital trustees shall be elected and hold their offices, two for two years, two for four years, three for six years, and who shall by lot determine their respective terms. At each subsequent November election the offices of the trustees whose terms of office are about to expire shall be filled by the nomination and election of hospital trustees in the same manner as other officers are elected, none of whom shall be practicing physicians: Provided, however, That the board of supervisors of any county where a county public hospital is established, may, by a majority vote of all members elect, provide

for election of said trustees by the board of supervisors instead of choosing them by election at the November election as herein provided.

(359) **§ 7066 County hospital board of trustees; oath, organization, business control powers, expenses; meeting, quorum, record; interest in contracts, borrowing power.** Sec. 4. The said trustees shall within ten days after their appointment or election qualify by taking the oath of civil officers, and organize as a board of hospital trustees by the election of one of their number as chairman, one as secretary, and by the election of such other officer as they may deem necessary, but no bond shall be required of them. The county treasurer of the county in which such hospital is located shall be treasurer of the board of trustees. The treasurer shall receive and pay out all the moneys under the control of the said board as ordered by it, but shall receive no compensation from such board. No trustee shall receive any compensation for his services performed, but may receive reimbursements for any cash expenditures actually made for personal expenses incurred as such trustee, and an itemized statement of all such expenses and money paid out shall be made under oath by each of such trustees and filed with the secretary and allowed only by the affirmative vote of all the trustees present at a meeting of the board. The board of hospital trustees shall make and adopt such by-laws, rules and regulations for its own guidance and for the government of the hospital as may be deemed expedient for the economic and equitable conduct thereof not inconsistent with this act, and the ordinances of the city or town wherein such public hospital is located. It shall have the exclusive control of the expenditure of all moneys collected to the credit of the hospital fund, and of the purchase of a site or sites, the purchase or construction of any hospital building or buildings, and of the supervision, care and custody of the grounds, rooms or buildings purchased, constructed, leased or set apart for that purpose: Provided, That all moneys received for such hospital shall be deposited in the treasury of the county to the credit of the hospital fund, and paid out only upon warrants drawn by the auditor of said county or by the county clerk in counties not having a county auditor upon the properly authenticated vouchers of the hospital board. Said board of hospital trustees shall have power to appoint a suitable superintendent or matron, or both, and necessary assistants, and fix their compensation: and shall also have power to remove such appointees: and shall in general carry out the spirit and intent of this act in establishing and maintaining a public county hospital with equal rights to all and privileges to none. Such board of hospital trustees shall hold meetings at least once each month, shall keep a complete record of all its proceedings, and four members of said board shall constitute a quorum for the transaction of business. One of said trustees shall visit and examine said hospital at least twice each month, and the board shall, during the first week in October of each year, file with the board of supervisors of said county a report of its proceedings with reference to such hospital, and a statement of all receipts and expenditures during the year: and shall at such times certify the amount necessary to maintain and improve said hospital for the ensuing year. No trustee shall have a personal pecuniary interest either directly or indirectly in the purchase of any supplies for said hospital, unless the same are purchased by competitive bidding.

Each said board shall constitute a body corporate and may sue and be sued. It shall be lawful for said board to borrow a sum of money equal to three-fourths the amount due and /or owing said county from the state in accordance with section nine of act number one hundred seventy-seven of the public acts of nineteen hundred twenty-five, as amended, being section seven thousand fifty-two of the compiled laws of nineteen hundred twenty-nine, and to issue bonds and /or notes therefor to be repaid from the receipt from the state of such amount due and/or owing said county.

Am. 1933, Act 219.

(360) **§ 7067 Same; vacancies, filling.** Sec. 5. Vacancies in the board of trustees occasioned by removals, resignations or otherwise shall be reported to the board of supervisors and be filled in like manner as original appointments, appointees to hold office until the next following November election, when such vacancy shall be filled by election in the usual manner.

(361) **§ 7068 Bonds; issuance, terms, sale at par.** Sec. 6. Whenever any county in this state shall have provided for the appointment and election of hospital trustees and has voted a tax for a term of not exceeding twenty years for hospital purposes, as authorized by law, the said county may issue bonds in anticipation of the collection of such tax in such sums and amounts as the board of hospital trustees shall certify to the board of supervisors of said county to be necessary for the purposes contemplated by such tax, but such bonds in the aggregate shall not exceed the amount which might be realized by said tax based on the amount which may be yielded on the property valuation of the year in which the tax is voted, and such bonds shall mature in fifteen years from date and shall be in sums of not less than one hundred dollars nor more than one thousand dollars drawing interest at a rate not exceeding five per cent per annum, payable annually or semi-annually, interest and principal to be paid at the office of the county treasurer of the county issuing such bonds. Said bonds shall be payable at the pleasure of the county after five years, and each of said bonds shall provide that it is subject to this condition and shall not be sold for less than par, and shall be substantially in the form provided for county bonds, but subject to changes that will conform them to the provisions of this act, and be numbered consecutively and redeemable in order of their issuance.

(362) **§ 7069 Approval of building plans; bids, advertisement.** Sec. 8. No hospital building shall be erected or constructed under the plans and specifications made therefor and adopted by the board of hospital trustees, until approved by the state board of health, and bids advertised for according to law for other county public buildings.

(363) **§ 7070 Annual appropriation.** Sec. 9. In counties exercising the rights conferred by this act the board of supervisors may appropriate each year in addition to tax for hospital fund hereinbefore provided for not exceeding five per cent of its general fund for the improvement and maintenance of any public hospital so established.

(364) **§ 7071 Admission to hospital; payment of compensation for care; regulations; non-residents.** Sec. 10. Every hospital established under this act shall be for the benefit of the inhabitants of such county and of any person falling sick or being injured or maimed within its limits; but every such inhabitant or person who is not a pauper shall pay

to such board of hospital trustees or such officer as it shall designate for such county public hospital, a reasonable compensation for occupancy, nursing, care, medicine, or attendants, according to the rules and regulations prescribed by said board, such hospital always being subject to such reasonable rules and regulations as said board may adopt in order to render the use of said hospital of the greatest benefit to the greatest number; and said board may exclude from the use of such hospital any and all inhabitants and persons who shall wilfully violate such rules and regulations. And said board may extend the privileges and use of such hospital to persons residing outside of such county, upon such terms and conditions as said board may from time to time by its rules and regulations prescribe.

(365) **§ 7072 Rules.** Sec. 11. When such hospital is established, the physicians, nurses, attendants, the persons sick therein and all persons approaching or coming within the limits of same, and all furniture and other articles used or brought there shall be subject to such rules and regulations as said board may prescribe.

(366) **§ 7073 Donations.** Sec. 12. Any person, or persons, firm, organization, corporation or society desiring to make donations of money, personal property or real estate for the benefit of such hospital, shall have the right to vest title of the money or real estate so donated in said county, to be controlled, when accepted by the board of hospital trustees according to the terms of the deed, gift, devise or bequest of such property.

(367) **§ 7074 Discrimination; right of patient to employ physician, nurse.** Sec. 13. In the management of such public hospital no discrimination shall be made against practitioners of any school of medicine recognized by the laws of Michigan, and all such legal practitioners shall have equal privileges in treating patients in said hospital. The patient shall have absolute right to employ at his or her own expense his or her own physician or nurse, and when acting for any patient in such hospital the physician employed by such patient shall have exclusive charge of the care and treatment of such patient, and nurses therein shall as to such patient be subject to the directions of such physician, subject always to such rules and regulations as shall be established by the board of trustees under the provisions of this act.

(368) **§ 7075 Nurses training school.** Sec. 14. The board of trustees of such county public hospital may establish and maintain in connection therewith and as a part of said public hospital, a training school for nurses.

(369) **§ 7076 Insanity; examination room.** Sec. 15. The said board of trustees shall at all times provide a suitable room for the detention and examination of all persons who are brought before the commissioners of insanity for such county: Provided, That such public hospital is located at the county seat.

(370) **§ 7077 Tubercular cases; accommodations, rules, head nurse.** Sec. 16. The board of trustees of said hospital is hereby authorized to provide, as a department of said public hospital but not necessarily attached thereto, suitable accommodations and means for the care and treatment of persons suffering from tuberculosis, and to formulate such rules and regulations for the government of said persons, and for the protection from infection of other patients and nurses and attendants in such public hospital as it may deem necessary. And it shall be the duty

of all persons in charge of or employed at such hospitals, or residents thereof to faithfully obey and comply with any and all rules and regulations. Said board of hospital trustees shall, if practicable, employ as head nurse to be placed in charge of said public tuberculosis sanatorium one who has had experience in the management and care of tuberculous persons.

(371) **§ 7078 Compensation for patient's care; charity patient.** Sec. 17. The board of hospital trustees shall have power to determine whether or not patients presented at said public hospital for treatment are subjects for charity, and shall fix such compensation for care of patients other than those unable to assist themselves, as the said board may deem proper, the receipts therefor to be paid to the treasurer of said county and credited by him to the hospital fund.

(372) **§ 7079 Tubercular patient; contract power of supervisors.** Sec. 18. The board of supervisors of any county where no suitable provision has been made for the care of its indigent tuberculous residents, may contract with the board of hospital trustees of any public hospital for the care of such persons in the sanatorium department of said hospital upon such reasonable terms as may be agreed upon.

(373) **§ 7080 Dependent children.** Sec. 19. The board of trustees of said hospital is hereby authorized to provide or establish as a department of said hospital, but not attached thereto, suitable accommodations and means for the care of dependent children. And said department shall be under the care and supervision of the trustees aforesaid of the county hospital in like manner as heretofore described in connection therewith.

Joint County Sanatoria

An Act to provide for the establishment, enlargement, extension and maintenance of joint county sanatoriums for the treatment of tuberculosis. (a)

[Act 343, P. A. 1917.]

The People of the State of Michigan enact:

(374) **§ 7027 Joint county sanatorium, establishment; committee, duties, expenses.** Section 1. Any two or more counties in this state may co-operate for the establishment and maintenance of a joint county sanatorium for the treatment of tuberculosis in the manner hereinafter provided. It shall be competent for the board of supervisors of any county to appoint a committee of three citizens, taxpayers of the county, who are not members of the board to confer with a like committee similarly chosen from any other county or counties for the purpose of selecting and agreeing upon a site for a joint county sanatorium and procuring an option thereon. Said committee shall, through its chairman, communicate with the committees of the several boards of the counties co-operating and arrange for time and place of meeting. The committees from the several counties shall thereupon organize themselves into a joint committee and appoint one of its members chairman and a second

member secretary. Said joint committee shall at the next subsequent meeting of each board of supervisors of the counties co-operating, make a full report of its work, including a statement regarding said site and the estimated cost thereof. When after sixty days from the time of appointment of the last committee by any county co-operating said joint committee shall have failed to agree upon a site, the chairman of said joint committee shall so inform the president of the board of trustees of the Michigan state sanatorium for tuberculosis and said president and the secretary of said board of trustees together with the superintendent of said state sanatorium shall constitute a committee a majority of which shall have the power and shall proceed at once to select a site and obtain option thereon and its decision shall be final and shall be made a part of said joint committee's report to the several boards of supervisors as hereinbefore provided. The board of supervisors shall have power to reimburse the members of such committees for all expenses incurred by reason of their duties.

(375) **§ 7028 Board of trustees; members, oath, term; committee of co-operation.** Sec. 2. On presentation and adoption by the board of supervisors of the report of the joint committee as specified in section one of this act, said board shall appoint two suitable persons, residents and taxpayers of said county, as members of the board of trustees of such joint sanatorium. In the first instance one of such trustees shall serve for a period of one year from and after his appointment and the other trustee shall serve for a term of two years from and after his appointment. Thereafter each trustee appointed in accordance with this act shall hold office for two years and until his successor is appointed and qualifies. Any person appointed as such trustee shall file his acceptance with the county clerk of his county and shall also take and file with said clerk the constitutional oath of office. The board of supervisors shall also appoint a committee of three to cooperate with said board of trustees as hereinafter provided. Said committee shall be members of the board of supervisors and shall serve for one year from and after their appointment or until their successors are elected and qualified.

(376) **§ 7029 Same; officers; initial meeting, notice.** Sec. 3. The trustees of any proposed sanatorium to be established hereunder shall immediately upon their appointment as hereinbefore provided meet and organize by the election of a president, a vice president, a secretary and a treasurer. All the said officers shall be members of the board and their terms as officers shall expire with the expiration of their terms as such members. The initial meeting may be called by any four trustees, on the service of written notice upon the trustees selected in all the counties concerned.

(377) **§ 7030 Same; rules.** Sec. 4. Said board of trustees shall adopt rules and regulations governing its own procedure, its time and place of regular meetings, the manner of calling special meetings, and such other matters as will enable said board to perform its duties and carry out the purpose of this act.

(378) **§ 7031 Same; meeting with committee; apportionment of cost; tax spread.** Sec. 5. The board of trustees shall meet with the committee of three appointed by each board of supervisors in counties co-operating, as specified in section two of this act. Said committee shall estimate the amount to be expended for such site and sanatorium with the necessary

equipment, together with the amount necessary for current expenses of such institution for the first year. Said board of trustees, shall thereupon advertise for or otherwise procure plans and specifications for suitable building as soon thereafter as may be. Said committees and said board of trustees shall apportion the aggregate of the amount so required among the various counties concerned in proportion to the valuation of such counties as equalized by the state board of equalization at the preceding equalization thereof. The amount required to be raised by each of said counties together with the total amount so determined shall be certified by them to the several boards of supervisors, at the next session thereof, and they shall order a tax spread for such amount at the regular October meeting; or in its discretion any board of supervisors may borrow a part or all of such amount and issue the obligation of the county therefor. Any tax hereby authorized shall be spread and collected in the manner provided by the general tax law of the state, and shall be subject to all incidents thereof.

(379) **§ 7032 Finances; determination and apportionment of current expenses; tax.** Sec. 6. On or before the first day of September of each subsequent year said board of trustees and committee appointed as aforesaid shall estimate and determine upon the amounts necessary for current expenses and for necessary repairs and maintenance of such sanatorium and shall certify such determination to boards of supervisors who shall apportion the aggregate of such amounts among the various counties in the manner provided in the preceding section. Such apportionment shall be made and the amount to be raised by each county certified to the various boards of supervisors on or before the first day of October of each year; thereupon said boards shall order a tax spread for the portion raised by such county.

(380) **§ 7033 Same; deposit of income in special fund.** Sec. 7. All moneys raised either by taxation or by borrowing under the provisions of this act, shall be, in the first instance, paid into the treasury of the county where raised. The treasurer of said county shall, in case such money is raised by borrowing, immediately transmit the same to the treasurer of the county in which said sanatorium is located; and if said money is raised by taxation, shall transmit the same on or before the fifteenth day of March of each year. The county treasurer receiving such amounts shall deposit them in a special fund to be known as "The General Fund of the Joint Sanatorium of the Counties of"

(381) **§ 7034 Same; disbursements; accounts, publication.** Sec. 8. Money shall be paid out of the fund hereinbefore provided for only for the purposes of this act, and only on the order of the treasurer of the board of the trustees of such sanatorium, countersigned by the secretary. A full and detailed account of all receipts and expenditures shall be kept and a report thereof shall be made to the board of supervisors in each county concerned, at the regular October session thereof. Such report shall be incorporated in the minutes of the board and be published as a part thereof.

(382) **§ 7035 Board of trustees; corporate powers.** Sec. 9. The board of trustees hereby created shall be a body corporate to be known and designated as "The Board of Trustees of a Joint Sanatorium of the Counties of"; and may sue and be sued by such

corporate name. Said board is authorized and empowered to accept donations and bequests, to purchase and hold property in its corporate capacity for the purposes hereof, and to make all contracts that may be necessary for the carrying out of the duties hereby imposed. Said board may enter into necessary undertakings for the construction of a sanatorium subject to the same incidents as are now, or may be, by general law imposed upon public officials and boards of this state or of the various municipalities thereof invested with like powers and charged with like duties.

(383) **§ 7036 Same; powers; operating personnel, compensation; obligation for claims.** Sec. 10. Said board shall have general charge and oversight of the sanatorium established hereunder and may make rules and regulations therefor. Said board shall employ a competent person to act as superintendent of such institution who shall be the executive thereof. Said executive, with the consent of the board, may also employ other officials, nurses and employes as may be found necessary and, with the approval of the board fix the compensation of all persons appointed or employed hereunder. Such compensation shall be paid out of the fund hereinbefore provided for. No claim against such board of trustees arising out of contractual liability or otherwise shall be deemed to impose any obligation whatsoever on any of the counties contributing to the support of said institution.

(384) **§ 7037 Plans, approval; bids, advertisement.** Sec. 11. No building shall be erected to be used as a part of such sanatorium for the treatment of tuberculosis patients unless and until the plans and specifications therefor, as adopted by the board of trustees, and said committees, shall have been submitted to, and approved by the state board of health. In all cases where the cost of construction exceeds the sum of five hundred dollars bids shall be advertised for, in accordance with such general rules and regulations as the board of trustees may establish.

(385) **§ 7038 Admission rules; regulations.** Sec. 12. Any sanatorium established hereunder shall be deemed to exist and be maintained for the benefit of the people of the counties contributing to the support thereof. The board of trustees shall make regulations governing the admission and conduct of patients and may exclude any person or persons wilfully violating such regulations. Any indigent person afflicted with tuberculosis, in any of the said counties, may be admitted on the certificate of the superintendents of the poor or county physician, or any of them, of his county, upon such terms as may be determined by the said board of trustees. A person afflicted with tuberculosis who is not in indigent circumstances may be admitted and shall pay to said board of trustees, for the benefit of the institution, such reasonable compensation as shall be agreed on by such persons and such board. If the facilities of the institution will permit, the board of trustees may, in its discretion, accept patients afflicted with tuberculosis who are not residents of any of the counties contributing to the support of the institution, upon such terms as may be deemed proper.

(386) **§ 7039 Dependent children.** Sec. 13. Said board of trustees shall, as soon as possible, make provision for the care and maintenance of dependent children whose parent or parents are inmates of the institution.

(387) **§ 7040 Practitioners and nurses, patients' rights; prohibited discrimination.** Sec. 14. In the treatment of inmates of such sanatorium no discrimination shall be made against practitioners of any school of medicine or healing recognized by the laws of this state. Each patient so receiving treatment shall have the right to employ, at his own expense, his own physician or practitioner and nurse; and any physician, practitioner or nurse so employed shall be permitted entire freedom with reference to the treatment of the said case, subject however to such reasonable rules and regulations as shall be established by the board of trustees in accordance with the provisions of this act.

(388) **§ 7041 Board of trustees; vacancy, resignation.** Sec. 15. Any vacancy occurring on said board of trustees shall be filled for the remainder of the term by the board of supervisors of the county represented by such trustee. The resignation of any such trustee shall be presented to his board of supervisors for action thereby.

(389) **§ 7042 Same; fixing salary of superintendent; expenses; interest in contracts; claims; applicability of act.** Sec. 16. The said board of trustees may fix the compensation of the superintendent hereinbefore provided for at such reasonable amount, not exceeding three thousand dollars per year, as may be deemed proper. No member of said board shall be entitled to any compensation for his services but he may be reimbursed out of the fund of the sanatorium for any expense necessarily and properly incurred by him as a member of said board and in pursuance of his official duties as such. All such claims shall be approved by the board of trustees and paid in the manner hereinbefore provided. No member of such board shall be in any way interested in any contract on behalf of the institution; nor shall he be employed to render services therefor: Provided, That nothing in this act contained shall be construed to affect any sanatorium established and maintained by any one county.

(390) **§ 7043 Joint county sanatoriums; approved list; annual reports; state aid; referendum, petition, ballot, vote.** Sec. 17. Any sanatorium established under the provisions of this act, and which shall have expended at least ten thousand dollars in building and equipment, may, upon application to the state board of health, be placed upon the approved list of joint county sanatoriums. A joint county sanatorium, once entered upon said approved list, may remain listed and be entitled to state aid so long as the scope and character of its work are maintained in such manner as to meet the approval of the state board of health. On the first day of July of each year the secretary of the board of each joint county sanatorium on the approved list shall report under oath to the state board of health, the character of the work done and the treatment given, the number and names of the persons employed and patients treated and on said date remaining in such sanatorium, the amount contributed by each county for the support of such sanatorium, and such other matters as may be required by the state board of health. Upon receipt of such report, if it shall appear that the sanatorium has been maintained in a satisfactory manner, the secretary of the state board of health shall make a certificate to that effect, together with the cost of maintenance for the year and the amount actually contributed by each county therefor, and file it with the auditor general. Upon receiving

such certificate the auditor general shall draw his warrant payable to the treasurer of each county contributing toward the maintenance of such sanatorium for that portion of the sum of six thousand dollars, which the expenditure of each county contributing shall have been of the total amount contributed by the participating counties for the support of such sanatorium for the preceding year. The auditor general shall annually, beginning in the year nineteen hundred twenty, include and apportion in the state tax such sum as shall have been so paid. Whenever the board of supervisors of any county shall be presented with a petition signed by five per cent of the electors of the county asking that said board submit to the voters of such county the question whether a sanatorium shall be established in co-operation with one or more adjacent counties, the board of supervisors shall submit the question to the voters of the county at the next election, and if a majority of the voters voting thereon shall favor the establishment of such sanatorium, then the board of supervisors shall establish the same as provided in this act. The petition shall specify the amount of tax to be levied, which tax levy shall not exceed two mills on the dollar. It shall also specify the maximum amount to be expended by such county as its proportion in the purchase of a site and construction of buildings of such sanatorium. The form of ballot for such election shall be substantially as follows:

Shall the county of establish a tuberculosis sanatorium in conjunction with one or more adjacent counties, at cost to county not to exceed dollars?

Yes No .

(391) **Enlargement; bonds; taxation, committee of cooperation, apportionment.** Sec. 18. The boards of supervisors of the counties having established a joint county sanatorium for the treatment of tuberculosis under the provisions of this act may, by resolution of each board, provide for the addition to, enlargement or extension of such sanatorium, and its equipment. Such resolutions may provide for the financing of such addition, enlargement or extension, and the equipment thereof, by the issuance of self-liquidating bonds, or by a tax as provided in section five of this act, and, in case such resolutions provide for the issuance of self-liquidating bonds, such bonds shall be issued in accordance with the provisions of any law authorizing the issuance thereof. When the boards of supervisors of such counties shall have passed similar resolutions for the addition to, enlargement or extension of any such sanatorium, and its equipment, each board of supervisors shall appoint a committee of three to cooperate with the board of trustees of such sanatorium and the provisions of this act pertaining to the construction of such sanatorium shall apply to such additions, enlargements or extensions, and the equipment thereof, insofar as applicable. Said committees and said board of trustees shall apportion the aggregate of the amount required therefor among the several counties concerned in proportion to the valuation of such counties as equalized by the state board of equalization at the preceding equalization thereof. In the case revenue bonds are to be issued therefor, the boards of the supervisors of such counties, by a similar resolution of each board, shall authorize the issuance of such bonds, which shall be repaid from the revenue to be derived from the operation of the addition, en-

largement or extension, and equipment, herein authorized. Such revenue bonds shall be signed by the treasurers of each of such counties.

Added 1934 (ex. sess.), Act 3.

County Hospitals

An Act relative to the maintenance and construction of hospitals and sanatoria within the counties of this state and to provide a tax to raise moneys therefor.

[Act 139, P. A. 1909.]

The People of the State of Michigan enact:

(392) **§ 7058 County taxation in aid of hospitals; power of board of supervisors.** Section 1. The several boards of county supervisors of this state may raise by a tax to be levied on the property of said county, subject to taxation for county purposes, a sum of money to be used for constructing or maintaining or assisting to construct or maintain any hospital or sanitarium within said county. The said board of supervisors shall designate the hospital or sanitarium for which the moneys so raised are to be used: Provided, That any county not having within its boundary a hospital or sanitarium or any county though having a hospital or sanitarium within its boundary wishing to act in conjunction with any other county or counties for the purposes herein provided, may, in the judgment of the board of supervisors, use said moneys so raised in such combined undertaking of said several counties.

Grant of power to a county to support hospitals, in Const. VIII, 11, is limited to those institutions only where "persons suffering from contagious or infectious diseases" are treated, and this act is invalid in so far as it purports to permit counties to appropriate money for hospitals generally.—Sault Ste. Marie Hospital v. Chippewa Co. Treas., 209/684.

(393) **§ 7059 Same; apportionment, collection, limit.** Sec. 2. The tax provided for herein shall be apportioned and collected as other taxes for county purposes. Said tax shall not exceed two-tenths of one mill on each dollar of assessed valuation of said county, unless the same shall have been submitted to a vote of the qualified electors of such county: Provided, That in counties having a population of twenty-five thousand or more it shall be lawful to assess and levy a tax of not to exceed one mill on each dollar of assessed valuation of said county for a period of not exceeding two years for the purpose of constructing or assisting to construct a hospital or sanitarium within said county.

(394) **§ 7060 Same; payment to institution; expenditures.** Sec. 3. When the tax herein provided for shall be collected it shall be paid to the institution for which the same is raised, upon the warrant of the president and secretary thereof from time to time as vouchers are presented, and shall be expended by said board for the use of said institution within the limits prescribed by this act.

(395) **§ 7061 Annual report to supervisors, contents.** Sec. 4. It shall be the duty of the trustees or other officers of any hospital or sanitarium receiving any such assistance, to report once a year to the board of supervisors of the county granting such assistance. Such report shall set forth in detail the number of the patients cared for during the year, the average cost per person, the amount of money received from all sources, the amount of money expended and to whom paid, and a tabu-

lated statement of the number of persons admitted, the disease, or other cause of their admission, and the disposition made of each case, which said report shall be included and made a part of the record of said board of supervisors.

(396) **§ 7062 Placement on approved list; annual report; state aid.**
Sec. 5. Any sanatorium, established under the provisions of this act solely for the treatment of tuberculosis and which shall have expended at least ten thousand dollars in buildings and equipment, may, upon application to the state board of health, be placed upon the approved list of county sanatoriums, and once entered upon said approved list, may remain listed and be entitled to state aid so long as the scope and character of its work are maintained in such manner as to meet the approval of the state board of health. On the first day of July of each year the secretary of the board of said sanatorium on the approved list, shall report under oath to the state board of health, the character of the work done and the treatment given, the number and names of the persons employed and patients treated and on said date remaining in such sanatorium, the amount contributed by said county or counties for the support of such sanatorium, and such other matters as may be required by the state board of health. Upon the receipt of such report, if it shall appear that the sanatorium has been maintained in a satisfactory manner, the secretary of the state board of health shall make a certificate to that effect, together with the cost of maintenance for the year and the amount actually contributed by each county therefor, and file it with the auditor general. Upon receiving such certificate the auditor general shall draw his warrant payable to the treasurer of each county contributing toward the maintenance of such sanatorium, for a sum equal to one-half the amount actually contributed by said county for the support of such sanatorium for the preceding year: Provided, That the total sum so paid as state aid shall not exceed the sum of three thousand dollars for any one sanatorium in any one year. The auditor general shall annually, beginning in the year nineteen hundred eighteen, include and apportion in the state tax such sums as shall have been so paid.

City Communicable Disease Hospitals

An Act to authorize the construction or purchase of detention hospitals, or for the securing of the care and treatment of persons afflicted with contagious or communicable diseases, in cities within this state having a population of not less than five thousand inhabitants.

[Act 1, P. A. (1st ex. sess.) 1912.]

The People of the State of Michigan enact:

(397) **§ 7081 City contagious disease hospital; expense, limitations.**
Section 1. Hereafter it shall be lawful for any city within this state, having a population of not less than five thousand inhabitants, to borrow any sum of money to be used exclusively for the purpose of purchasing grounds, rights, privileges, materials, and in making improvements connected with, and for the sole purpose of providing such city, and the inhabitants thereof, with a detention hospital or hospitals, or for the care and treatment of persons afflicted with contagious or communicable

diseases: Provided, That the total sum borrowed and raised by tax by any such city for such purposes shall not exceed three mills on the dollar of the assessed valuation of such city, as contained in the last preceding assessment roll of the same: Provided further, That the rate of interest shall not exceed five per centum per annum upon any such indebtedness contracted under the provisions of this act.

(398) **§ 7082 Bond issue; payment of principal and interest; referendum.** Sec. 2. The common council of any city availing itself of the provisions of this act, shall have the power to fix the time and place of payment of the principal and interest voted under the provisions of this act, and to issue the bonds or other evidences of indebtedness of such city: Provided, That it shall not be lawful for the common council of any such city to borrow any portion of said sum of money unless the question of borrowing the same shall have been first submitted to the electors of such city at its annual election, or at a special election called for that purpose by the common council of such city, and shall have been adopted by a three-fifths vote of the electors voting at such election.

(399) **§ 7083 Same; tax levy for payment.** Sec. 3. It shall be the duty of the common council of any city availing itself of the provisions of this act, from time to time, as it may be necessary, to levy and collect such sums of money as may be required to pay the principal and interest of any bonds or other evidences of indebtedness voted by such city under this act.

(400) **§ 7084 Act construed.** Sec. 4. Nothing in this act shall be construed to affect the special provisions in the charter of any city already authorizing the construction or purchase of detention hospitals, or for the securing of the care and treatment of persons afflicted with contagious or communicable diseases.

Sec. 5 declares this act immediately necessary for the preservation of the public health.

CHAPTER VI.—VITAL STATISTICS AND RECORDS

Registration of Births and Deaths

An Act to provide for registration of births, deaths and adoptions in this state; the appointment of registrars thereof; requiring physicians and others to make certain reports; to provide for certified copies of certain vital statistics records; providing penalties for violating the provisions hereof and to repeal certain inconsistent acts. (a)

[Act 343, P. A. 1925.]

The People of the State of Michigan enact:

(401) **§ 6573 Births and deaths; registration.** Section 1. The state department of health shall have supervision of the registration of births and deaths in this state. It shall require the registration of all births and deaths in each primary registration district, as constituted by this act. The state commissioner of health with the advice and consent of the public health council may formulate such rules and regulations supplementary to the provisions of this act and not inconsistent therewith, as may be necessary to carry out the provisions hereof.

(a) Title Am. 1931, Act 124; 1933, Act 105.

(402) **§ 6574 Supervisory powers of commissioner of health; bureau of vital statistics, establishment.** Sec. 2. The state commissioner of health shall have general supervision of the bureau of vital statistics, and over all registrars, deputy registrars and sub-registrars provided for in this act. He shall appoint a director to have charge of such bureau. He shall detail to such bureau such clerical and other assistants as may be necessary to properly carry on the work thereof.

(403) **§ 6575 Primary registration district.** Sec. 3. Each city, incorporated village, township, state hospital and charitable or penal institution shall constitute a primary registration district. The state commissioner of health may combine two or more primary registration districts into one district or divide one registration district into two or more districts to facilitate enforcement of the provisions of this act. When two or more registration districts are combined in a single district, he shall also designate the township or village clerk most conveniently located, to be the local registrar for the combined districts. Where a primary registration district is divided into two or more districts, the supervisor, village president or mayor shall designate with the approval of the state commissioner of health, a local registrar for such district.

(404) **§ 6576 Local registrars, duties; deputy.** Sec. 4. Each city clerk, village clerk and township clerk, and the superintendent or person in charge of each state hospital and charitable or penal institution, shall be the local registrar of vital statistics in such official's registration district except, that the state commissioner of health may designate the health officer of any city having a full time health officer as local registrar instead of the city clerk of such city. Each local registrar shall, upon taking office, appoint a deputy who shall act for and in behalf of such registrar during his absence or disability. Such deputy shall be subject to all laws, rules and regulations covering registrars. Each local registrar is charged with the thorough enforcement of the provisions of this act in his district and shall report to the state commissioner of health any violation of the provisions of this act coming to his knowledge. He shall promptly and correctly record in books provided for that purpose every certificate of birth or death filed with him, dating same the exact date of its receipt by him over his signature, numbering each birth and each death in consecutive order in separate series beginning with number one, for the first certificate of each calendar year and shall send all original certificates to the state department of health on the fourth day of the following month.

(405) **§ 6577 Sub-registrars; limited powers, duties.** Sec. 5. Whenever the state commissioner of health deems it necessary, he may appoint a duly licensed embalmer as sub-registrar of vital statistics in any rural community upon an application therefor and payment by such applicant of a registration fee of one dollar. Sub-registrars so appointed shall not be permitted to act within the corporate limits of any city or incorporated village. Such license shall expire on the thirtieth of June, thereafter and may be cancelled at any time by the state commissioner of health after reasonable notice and hearing, for a violation of any of the provisions of this act or of any rule or regulation established by the state commissioner of health. Such sub-registrar shall not issue a permit to himself to bury, cremate or otherwise dispose of a body or conduct a funeral

until he shall have secured a certificate of death as required by this act. He shall file all certificates of death upon which he has issued a permit to himself with the registrar of the township in which the death occurred on or before the last day of the month in which such permit was issued. Sub-registrars shall receive no compensation for issuing burial, removal or transit permits or for transmitting certificates of death to the local registrars.

(406) **§ 6578 Burial and removal permits.** See. 6. No body where the death occurred in this state, nor any dead body found therein, shall be interred, deposited in a vault or tomb, cremated or other disposition made thereof, removed from or into any registration district or be held pending further disposition for more than seventy-two hours after death, unless a permit for the disposition thereof shall have been issued by the registrar of the district in which the death occurred, or the body was found. No burial or removal permit shall be issued until a certificate of death has been filed with the registrar as hereinafter provided. A transit or removal permit from another state from which a dead body is transferred, issued in accordance with the law of such place, shall be accepted as the burial permit herein provided.

(407) **§ 6579 Blank forms; execution.** Sec. 7. The state commissioner of health shall prepare and furnish to the registrars all forms and blanks required by this act and all instructions, rules and regulations adopted hereunder and necessary for carrying out the provisions hereof. No forms or blanks other than those furnished by the commissioner shall be used. The form of such certificates and blanks and the information to be furnished thereon shall be determined by him but shall conform to the standardized form as nearly as possible. Such certificates shall be signed by the person giving the information and by the undertaker, the physician or such other person or persons as the department deems advisable.

People v. Cramer, 247/127, 129.

(408) **§ 6580 Death without medical attendance; inquest; certificate.** Sec. 8. In case of any death occurring without medical attendance it shall be the duty of the undertaker or person acting as such to notify one of the county coroners, or a justice of the peace acting as coroner, who shall investigate or hold an inquest as the circumstances require and shall certify as to the cause of such death on the death certificate and shall sign the same officially as coroner or acting coroner. If such death was the result of violence, the said coroner, or justice of the peace acting as such, shall state the cause of the violence and whether or not it was apparently accidental, suicidal or homicidal and shall furnish such further information as may be required by the state commissioner of health.

Cause of death is an issue of fact.—Kudla v. Prudential Ins. Co., 272/558.

(409) **§ 6581 Certificate of death, contents, manner of affixing signature; disposition permit.** Sec. 9. The funeral director or person having charge of a corpse shall file the certificate of death with the registrar of the district in which the death occurred and obtain a burial or removal permit prior to disposing of the body. He shall obtain the required personal and statistical particulars over the signature and address of his informant. The attending physician or in the absence of an attending physician, the coroner shall fill out and sign the medical certificate of

death within twenty-four hours after death. The funeral director shall then state over his signature and address the date and place of intended burial, cremation or to which such body is to be removed, and present the completed certificate to the registrar for a permit for burial, removal or other disposition of the body.

The name of each person who signs the certificate of death as herein required shall be legibly printed, typewritten or stamped upon such certificate immediately beneath the signature of such person. Such permit shall be delivered to the person in charge of the place of burial before the body is interred or otherwise disposed of. If the body is to be shipped, the permit shall be attached to the box containing the same and shall be delivered to the person in charge of the place of burial if within the state of Michigan.

Am. 1937, Act 291.

(410) **§ 6582 Permit for disposition of body; contents.** Sec. 10. If the interment or other disposition of the body is to be made within the state, the wording of the permit for burial, cremation or removal, may be limited to a statement by the registrar over his signature, that a satisfactory certificate of death has been filed with him, as required by law and that permission is therefore granted to inter, cremate, remove or otherwise dispose of the body and such further information as shall be prescribed by the commissioner of health.

(411) **§ 6583 Same; to accompany body; endorsement and return; records.** Sec. 11. No person in charge of any premises on which interments or cremations are made, shall permit the disposition of any body therein, unless it is accompanied by a permit as herein provided. Such person shall endorse thereon the date of interment or cremation, over his signature and shall then return the permit to the registrar of his district within seven days thereafter. He shall keep a record of all bodies disposed of on the premises under his charge, which record shall state the name, place of death, date of burial, cremation or disposal and name and address of the undertaker in charge. The record shall be open at all times to official inspection. If the body is buried in a cemetery having no person in charge, the undertaker shall sign such permit and file the same within three days with the registrar of the district in which the cemetery is located.

(412) **§ 6584 Registration of births; illegitimate births; record of adoption.** Sec. 12. The birth of each child born in this state shall be registered within five days after the date thereof. A certificate of such birth shall be filed with the registrar of the district in which it occurred: Provided, however, That an illegitimate birth shall be filed with the state department of health and not with the registrar of the district in which it occurred. Such illegitimate birth record shall be kept in a separate file and shall not be subject to public inspection nor copies thereof issued, except upon order of a court of competent jurisdiction. It is hereby made the duty of the physician, midwife or person acting as midwife in attendance at a birth, to file the certificate. If no physician, midwife or person acting as midwife was in attendance, it shall be the duty of the father or mother of the child, the householder or owner of the premises or the manager or superintendent of the public or private institution where the birth occurred, in the order named, to report such birth to the

local registrar within five days thereafter: Provided, however, That an illegitimate birth shall be filed with the state department of health and not with the registrar of the district in which it occurred. If the person required to file such certificate is unable to obtain any item of information required to be furnished, the registrar shall secure the same if possible from any person having such knowledge and complete the certificate of birth. Any person interrogated by the registrar shall answer to the best of his knowledge, all material questions asked him by the registrar relative to any information needed to complete the birth record. The informant shall sign any statement made in accordance therewith upon the request of the registrar. Whenever a decree of adoption is entered in any court of competent jurisdiction in the state of Michigan, a record of the adoption shall be filed with the state department of health on a form prescribed by the state commissioner of health. This record shall bear the new name of the child, the name of the foster parents, and the date and place of birth as nearly as may be known, but it shall make no reference to the natural parents. This record of adoption shall be filed with the birth records of the state and certified copies shall be issued upon request. Such certified copies shall be accepted in all courts and places as *prima facie* evidence of the date and place of birth of said child.

Am. 1933, Act 105.

(413) **§ 6585 Institutional records.** Sec. 13. Any superintendent, manager or person in charge of any hospital, almshouse, lying-in hospital or any institution public or private, to which persons resort for treatment or confinement or to which persons are committed by process of law, shall make the record required in the certificate of birth or death of all inmates in their institutions, when this act becomes effective. Such record shall be made of all future births or deaths in the institution. Where persons are admitted or committed for treatment, the physician in charge shall furnish such other information as may be required by the state commissioner of health. All such information shall be obtained from the patient himself, if possible, but if not, it shall be obtained from any other person acquainted with the facts.

(414) **§ 6586 Information; certificates, preservation; reports of deaths from infectious diseases.** Sec. 14. Any person shall furnish such information as he may possess regarding any birth or death, to the state commissioner of health, upon demand. The state commissioner of health shall preserve permanently, all the certificates filed in his office. The local registrar shall immediately notify the health officer of his district of all deaths reported to have occurred from such infectious, contagious or communicable diseases as may be designated by the rules and regulations of the commissioner.

(415) **§ 6587 Stillbirths; definition, certificates.** Sec. 15. A stillbirth shall mean a child in which there is no movement of voluntary muscles or effort to breathe after birth. Both a birth and death certificate and a burial or removal permit shall be required for each stillborn child which has advanced to the fifth month of uterogestation. The certificate of birth shall contain in the space for the name of the child, the word "stillborn." The medical certificate shall be signed by the attending physician, if any. It shall state the cause of death as "stillborn," with the reason therefor and if born prematurely, the period of uterogenesis.

tation in months, if known. Stillbirths occurring without the attendance of a physician shall be treated as deaths without medical attendance, as hereinbefore provided.

(416) **§ 6588 Certified copies of vital records; fees, free copies; illegitimate births.** Sec. 16. The state commissioner of health shall, upon a request accompanied by the fee hereinafter provided, search the records and issue certified copies of births, deaths, marriages or divorces. The minimum fee for a certified copy of any record shall be one dollar, which includes fifty cents for a certified copy of the record and fifty cents for the search, provided that the search does not extend through records of more than three years. For each additional year searched, the charge shall be twenty-five cents and for each additional certified copy ordered at the same time the charge shall be fifty cents. For a search of the records when no certified copy is desired, the charge shall be twenty-five cents for each year searched, for each name. Upon application of any soldier, sailor or marine, or member of his family, one copy of any record shall be furnished without charge for the purpose of securing pensions or compensation. Copies of records shall be furnished without charge, for official use only, to any court or state department upon formal application. Copies of records of illegitimate births shall not be furnished to any one but the mother of the child, or the child, except upon court order.

Am. 1981, Act 124.

(417) **§ 6589 Vital statistics; correction of records, legitimization.** Sec. 17. Whenever it is alleged that the facts are not correctly stated in any certificate of birth or death heretofore registered, the state commissioner of health shall require satisfactory evidence to be presented in the form of affidavits or otherwise as may be necessary to establish the alleged facts and when so established the original record may be changed to accord with the same. Whenever it is alleged that the father and mother of an illegitimate child have become legally married, at any time subsequent to the birth of such child, the state commissioner of health shall require satisfactory evidence to be presented in the form of affidavits, certified copies of records or otherwise, as may be necessary to establish such marriage, and when so established a new certificate shall be substituted so as to record the legitimate birth of the child, and the married name of the mother. The father or mother, however, of any child, or the mother alone of an illegitimate child, whose birth has been registered, may during the lifetime of said child change the given name of the child on the record, by filing a supplemental certificate of its name.

Am. 1933, Act 172.

(418) **§ 6590 Local registrars; fees, payment.** Sec. 18. Local registrars shall be entitled to a fee of twenty-five cents for each birth and each death registered and certificate forwarded by him to the state department of health, on the fourth of the following month. If no births or deaths have occurred in his registration district for any particular month, he shall make a report to that effect and shall receive the same fee therefor as for making one certificate. The state commissioner of health shall issue warrants to local registrars at the end of their official year, ending March thirty-first, showing the number of certificates registered and returned and the number of "no report" cards, with the amount due at the rate fixed herein. Such warrants shall be sent to the

county clerk who shall, if he finds the same are correct, according to the records in his office, forward the warrant to the local registrars for payment by the county treasurer from the general fund of the county.

(419) **§ 6591 Same; transcript of birth and death records to county clerk.** Sec. 19. At the end of each quarter the local registrar shall send a transcript of the record of all births and deaths registered by him for the quarter to the county clerk.

(420) **Transcript of death record of non-resident.** Sec. 19a. When a death certificate returned by a local registrar to the state commissioner of health indicates that a person died in a county in which he was not a resident it shall be the duty of said commissioner to make a transcript of such record upon a certificate of a different color than the ordinary death certificate and forward such transcripts monthly to the clerk of the county in which such person was a resident, and it shall be the duty of said clerk to file and preserve such transcripts and to record the facts on such transcripts in the book of death records and mark the entries "Transcript from County".

Added 1931, Act 182.

(421) **§ 6592 Penalties; removal of local registrar from office.** Sec. 20. Any person who for himself or as an agent or employe of any other person, corporation or copartnership, neglects or refuses to do or perform any act or thing to be done or performed by him as required in this act or who refuses or neglects to furnish any information in his possession or who furnishes any false information or who violates any of the other provisions of this act or any rule or regulation lawfully established by the state commissioner of health or who shall wilfully alter, otherwise than as provided in this act, or falsify any certificate of birth or death or any record established in compliance therewith, where no other penalty is provided herein, shall be deemed guilty of a misdemeanor and upon conviction thereof shall, for the first offense, be punished by a fine of not less than five dollars nor more than fifty dollars and for each subsequent offense by a fine of not less than twenty-five dollars nor more than one hundred dollars or by imprisonment in the county jail for not more than sixty days or by both such fine and imprisonment in the discretion of the court. Any physician who shall fail to file a certificate of birth as required by this act within five days after the birth of the child shall be deemed guilty of a misdemeanor and for the conviction thereof shall, for the first offense be punished by a fine of not less than five dollars, nor more than fifty dollars and for the second and each subsequent offense, be fined not less than fifty dollars nor more than two hundred dollars. Any local registrar who shall neglect or refuse to make reports to the state department of health or who shall neglect or refuse to enforce the provisions of this act in his district promptly in accordance with this act, shall, in addition to the other penalties provided herein, be subject to removal from office by the governor, in the same manner as county and state officers are removed from office and the township board, village president or mayor shall appoint a clerk in his place. Any clerk so removed shall not be eligible for reappointment or reelection for a period of two years thereafter.

The punishment provided is not cruel and unusual within the meaning of the constitution.—
People v. Cramer, 247/127.

(422) **§ 6593 Violations; report, duty of attorney general.** Sec. 21. Whenever the state commissioner of health deems it necessary, he may report cases of violations of any of the provisions of this act or of the rules and regulations adopted hereunder, to the attorney general, with a statement of the facts and circumstances and when any such case is reported, the attorney general shall either directly or through the prosecuting attorney of the county where such violation occurred, initiate the necessary criminal proceedings against the person, firm or corporation responsible for the alleged violations.

Sec. 22 repeals Act 330, P. A. 1905, and Act 217, P. A. 1897.

Divorce Statistics

An Act to provide for the collection and publication of statistics of divorces in Michigan.

[Act 9, P. A. 1897.]

The People of the State of Michigan enact:

(423) **§ 6595 Divorce petitions; returns to health commissioner, form, contents.** Section 1. The clerks of circuit courts for the several counties, the clerks of superior courts and of all other courts having jurisdiction in divorce cases shall on the first day of each term of court or, if no regular terms are held, then on or before the first day of February of each year make returns to the state commissioner of health in relation to petitions or bills for divorce in their respective courts for the preceding term thereof or for the preceding calendar year, if there are no regular terms of such court. The returns shall be made on blanks supplied by the commissioner of health for that purpose and shall specify the following details: Number of petitions or bills pending at the beginning of the term; whole number of petitions or bills filed within the term; number of divorces granted; number of divorces refused; number of petitions or bills contested; number of petitions or bills pending at the end of the term; alleged cause for divorce in each case; sex of plaintiff; date and place, state and county, where the marriage was performed; the name of each party; age of each party; names and ages of all children in family.

(424) **§ 6596 Divorce statistics; preparation, report.** Sec. 2. The commissioner of health shall prepare from said returns, abstracts and tabular statements of the facts relating to divorces in this state and embody the same in the annual report relating to the registry of births, marriages and deaths.

Registration of Unreported Births

An Act to provide for the registration of unreported and unrecorded births. (a)

[Act 35, P. A. 1931.]

The People of the State of Michigan enact:

(425) **Registration of births; probate court.** Section 1. Whenever a birth that occurred in the state of Michigan is not on record in the office of the state health commissioner, or the office of the county clerk, and the attending physician is not available to make the registration, application for the registration of the birth may be made by the interested person to the judge of probate, either of the county of residence or the county of birth.

Am. 1941, Act 361.

(426) **Application for registration; affidavits; documentary evidence; fee.** Sec. 2. The application for registration shall be sworn to before a person authorized to take acknowledgments and set forth all of the facts required on the certificate of birth which may be issued by the state health commissioner, under the provisions of section 7 of Act No. 343 of the public acts of 1925, shall be supported by the affidavit of at least 2 persons having personal knowledge of the facts stated therein and, if available, documentary evidence created on or about the date of birth, and shall be accompanied by a fee of \$2.00: Provided, That such application shall be accompanied by a certificate or statement in writing from the state health commissioner or the county clerk or his deputy of the county of birth, to the effect that a search has been made and no record found of such birth.

Am. Id.

(427) **Testimony; order for registration.** Sec. 3. The probate judge shall examine the application and take such testimony as may, in his judgment, be necessary to establish the facts. If he is satisfied that the facts are as stated he shall issue an order to the state health commissioner that such birth be registered and a copy of such order shall be transmitted to the state health commissioner within 10 days from the date thereof: Provided, That in case satisfactory documentary evidence is not available and it is impossible for said applicant to furnish affidavits as required by section 2 of this act, then the judge of probate shall take testimony as provided earlier in this section and file a transcript of such testimony with the application in his office.

Am. Id.

(428) **Order; form; filing; admissible in evidence.** Sec. 4. The order for the registration of such birth shall be on a form provided by the state health commissioner and shall be properly signed by the judge of probate, and the birth shall be registered in the records of the state health commissioner, who shall forward to the county clerk of the county of birth a complete copy of said record for filing in that office. A certified copy of either of such records, when issued shall be admissible in evidence in all courts and proceedings.

Am. Id.

(429) **Fee; to whom paid.** Sec. 5. The probate judge shall remit to the state health commissioner, with the order for the registration of the birth, one dollar of the fee deposited with the application, and shall retain one dollar for his services.

(430) **Registration of unrecorded births which occurred outside of state.** Sec. 6. Whenever it shall appear that a birth which occurred outside of the state of Michigan, but within the confines of the United States or any of its possessions, is not on record in the proper recording office of the district in which said birth occurred, or a child born to citizens of the United States sojourning in foreign countries is not on record, the interested party may petition under oath the probate judge or the circuit court in chancery of the county of residence to determine the time and place of birth of such petitioner and such other facts as may be required from time to time in the registering of such births by the circuit court. If the court is satisfied that the evidence is sufficient, he may include in the order making such determination a further determination of the following facts in so far as possible: full name of child, color, sex, number of months of pregnancy, whether or not such child was one of twins, triplets or other number of children, and if so, the number of such child in the order of birth and also full information in regard to both the father and mother of such child; full name, residence and post-office address, color, age at last birthday, birth place, occupation, and also the number of children born to such mother and the number of children then living.

The court shall examine such petition and may require such documentary evidence and testimony, including depositions, as shall be necessary in his judgment to establish such facts. Affidavits of any person having personal knowledge of the facts stated therein shall be admissible in such courts as proof of the facts stated therein. If the court is satisfied that the proofs submitted are sufficient to establish such facts, he shall issue an order determining the same and providing for the registering of such birth in the office of the clerk of the circuit court. Such order, together with any depositions or affidavits filed, shall become a matter of record in the office of such court or the clerk thereof. A certified copy of such record or any part thereof when issued shall be admissible in evidence in all courts and proceedings.

Any such birth heretofore determined by any court in this state in accordance with the rules of the supreme court covering the determination of the time and place of such birth shall be a valid determination under the provisions of this section.

The judge of probate shall transmit a certified copy of such determination to the clerk of the circuit court of his county for the registration of such birth, together with \$1.00 of the fee deposited with the petition and shall retain \$1.00. A filing fee of \$2.00 shall be paid to the clerk upon the filing of a petition to the circuit court in chancery.

Added 1941, Act 361; Am. 1942 (2nd ex. sess.), Act 14.

CHAPTER VII—CARE OF AFFLICTED CHILDREN AND ADULTS

Crippled Children

An Act to declare the policy of the state of Michigan with reference to crippled children; to provide for the appointment of, and to prescribe the powers and duties of the Michigan crippled children commission; to provide for the registration, examination, diagnosis, treatment, follow-up supervision, convalescent and custodial care and education of crippled children; to provide for the establishment, maintenance and conduct of hospital schools for convalescent crippled children; and to provide for, and regulate the making of appropriations to carry out the purposes of this act; and to repeal all acts and parts of acts inconsistent with the provisions of this act.

[Act 158, P. A. 1937.]

The People of the State of Michigan enact:

TITLE I. POLICY OF STATE.

(431) **Crippled children's act; policy of state.** Section 1. Policy of state. It is hereby declared to be the public policy of the state to develop, extend, and improve, especially in rural areas, services for locating children who are suffering from conditions which lead to crippling and for providing medical, surgical, corrective, and other services and care, including after care and custodial care when necessary, and facilities for diagnosis, hospitalization, and special education for crippled children as herein provided; and to prevent, insofar as possible, such crippling conditions. Such policy being based not only on humanitarian but on economic considerations, it shall be carried out not only for the purpose of providing medical and physical care for crippled children, but for the purpose of making them self-sustaining in whole or in part, rather than charges on the public for support.

TITLE II. DEFINITION OF CRIPPLED CHILD.

(432) **Definition.** Sec. 2. Definition. For the purposes of this act a crippled child is hereby defined to be one under twenty-one years of age, married or unmarried, whose activity is or may become so far restricted by defect or deformity of bones or muscles, or the impairment of function thereof, as to reduce his or her normal capacity for education and self-support.

TITLE III. MICHIGAN CRIPPLED CHILDREN COMMISSION.

(433) **Commission; appointment, term, vacancies, oath, compensation and expenses, corporate body.** Sec. 3. Commission; appointment, term, vacancies. There shall be appointed by the governor, by and with the advice and consent of the senate, a commission composed of five members, to be known as the Michigan crippled children commission, hereinafter referred to as the commission. Two of such members shall be appointed to serve for a period of one year, two for two years and one for a period of three years, and each year thereafter there shall be appointed two members or one member, as the case may be, to serve for the full term of three years or until their successors are appointed and qualified. All vacancies shall be filled by appointment by the governor. Each member of the commission shall take and subscribe to the oath of office required

by law. Such members shall serve without compensation, but shall be entitled to their actual traveling expenses. Such commission shall be a body corporate and may contract and be contracted with, sue and be sued, and do all things necessary to perform the duties required and to execute the powers vested in the commission by law.

(434) **Same; powers and duties.** Sec. 4. Specific powers and duties. The commission shall have power (1) to administer a program of services for children who are crippled or who are suffering from conditions which lead to crippling, and to supervise the administration of those services included in the program which are not administered directly by it; (2) to make rules governing its procedure; (3) to select a chairman and a vice-chairman who shall serve without compensation, for the term of one year, and to employ a director who shall be a regularly qualified and licensed physician of the state of Michigan, a secretary and any other personnel necessary for the carrying out of the provisions of this act, and other necessary and properly qualified office and field employes, who shall serve during the pleasure of the commission, and receive necessary traveling expenses and salaries to be fixed by the commission: and (4) to make and enforce rules and regulations concerning employes serving the commission, the approval of hospitals, convalescent homes and orthopedic centers, the conduct of clinics, the handling of cases, the providing of hospital schools, and in cooperation with the auditor general the fixing of fees and institutional rates, the payment of bills, and the carrying out of all of the provisions of this act imposing duties upon it.

Am. 1943, Act 227.

(435) **Services for crippled children.** Sec. 5. Services for crippled children. The commission is hereby designated as the agency of the state to administer a program of services for children who are crippled or who are suffering from conditions which lead to crippling, and to supervise the administration of those services included in the program which are not administered directly by it. The purpose of such program shall be to develop, extend and improve services for locating such children, and for providing for medical, surgical, corrective, and other services and care, including after care and custodial care, and for facilities for diagnosis, hospitalization and special education.

(436) **Commission's plans; cooperation with federal government.** Sec. 6. Plan or plans; cooperation with federal government. The commission is hereby authorized:

(a) To formulate and administer a detailed plan or plans for purposes specified in section five, and make such rules and regulations as may be necessary or desirable for the administration of such plans and the provisions of this act. Any such plan shall include provisions for

- (1) Financial participation by the state;
- (2) Administration of the plan or plans by the commission, and supervision by the commission of the administration of those services included in the plan or plans which are not administered directly by it;
- (3) Such methods of administration as are necessary for efficient operation of the plan or plans;
- (4) Maintenance of records and preparation of reports of services rendered;

(5) Cooperation with medical, health, nursing, and welfare groups and organizations, and with any agency of the state charged with the administration of laws providing for vocational rehabilitation and special education of physically handicapped children;

(6) Carrying out the purposes specified in section five.

(b) To expend in accordance with such plan or plans all funds made available to the state by the federal government for such purposes.

(c) To cooperate with the federal government, under part two, title five of the federal social security act, through its appropriate agency or instrumentality, in developing, extending, and improving such services, and in the administration of such plan or plans.

(437) **Bequests; trust fund.** Sec. 7. Bequests; trust fund. The said commission shall have power and authority to receive and hold the title to property, both real and personal, by gift, devise, bequest and conveyance, to be used by said commission for the purpose of carrying out the provisions of this act, and all property so accepted shall be held and used as a trust fund for the purposes for which received.

(438) **Books and accounts; report.** Sec. 8. Books and accounts; report. The books and accounts of the commission shall be open at all times for examination. The commission shall make a biennial report to the governor and the state administrative board showing the amount of money received and expended and a detailed statement of its activities for said period, and a copy of such report shall be furnished each member of the legislature at its first session following the filing of such report with the governor.

TITLE IV. REGISTRATION OF CRIPPLED CHILDREN.

(439) **Forms.** Sec. 9. Forms. The forms prepared by the superintendent of public instruction for the enumeration of children of school age in this state, as provided by law, shall contain space for the special enumeration of crippled children as defined in this act. On supplementary blanks to be printed and furnished by the commission, shall be shown such information as shall be required by the commission for such children from birth to twenty-one years of age.

(440) **Duties of census enumerators.** Sec. 10. Duties of census enumerators. Each school census enumerator shall register in the space and on the blanks prescribed by section nine every crippled child as herein defined within his school district or subdivision thereof, and make report thereof to the superintendent of public instruction.

(441) **Duty of superintendent of public instruction.** Sec. 11. Duty of superintendent of public instruction. The superintendent of public instruction shall forthwith forward to the secretary of the commission the supplementary reports as herein required.

(442) **Investigation and report.** Sec. 12. Investigation and report. It shall be the duty of the commission, upon receipt of the completed supplementary school census reports, to cause to be investigated in collaboration with local authorities the needs of such children and to arrange for their proper care and education, as provided for in this act.

TITLE V. EXAMINATION AND DIAGNOSIS.

(443) **Holding of clinics.** Sec. 13. Holding of clinics. It shall be the duty of the commission to hold diagnostic clinics for crippled children in such places and at such times as circumstances and conditions may warrant. Preparations for, and the organization and administration of, such clinics shall be under the direction of the commission, which shall make suitable rules for their conduct.

(444) **Surgeons and specialists; reports.** Sec. 14. Surgeons and specialists; reports. The orthopedic surgeons and other necessary medical specialists who are to examine children at clinics shall be chosen by the commission in cooperation with the local county medical societies. It shall take detailed stenographic reports of the examining specialists at the clinics, including their recommendations, and prepare special blanks upon which such reports are to be recorded. Copies of such reports shall be furnished to properly interested persons and agencies in the counties where the respective children have their residences, including parents who are able to pay any part of the costs of the treatment recommended.

TITLE VI. TREATMENT.

(445) **Investigation and report.** Sec. 15. Investigation and report. Whenever there shall be found in any county a crippled child as herein defined, whose condition can be remedied and whose parents or guardians are unable to provide proper care and treatment, it shall be the duty of the commission, or such person or agency as shall be available and approved by the commission, as the case may be, to make an investigation and a certificate showing the physical and mental condition of such child and the financial condition of the family and setting forth a copy of the report of such investigation and of the report of a duly licensed practitioner of medicine with reference to such child. Such certificate shall be forwarded to the judge of probate of the county.

(446) **Order of probate judge; responsibility of commission.** Sec. 16. Order of probate judge; responsibility of commission. Upon the receipt of such certificate, it shall be the duty of the judge of probate promptly to consider the matter and to make a determination with reference thereto. The said judge of probate may enter an order, a copy of which shall be sent forthwith to the commission, including the report of the financial and medical investigators, directing that such child be conveyed to a hospital in the state which has been approved and designated by the commission for the care of such children, as herein defined. Upon receipt of the copy of such order, the commission shall become charged with the responsibility for the proper handling of the case, and may transfer such child to some other hospital for treatment better adapted to its needs, or because of lack of room or facilities, or for other adequate reason, the intent of this provision being that it shall be the duty of the commission to secure for each child such care and treatment as the particular necessities of the case may require.

(447) **Designation of hospitals.** Sec. 17. Designation of hospitals. Any hospital approved by the American college of surgeons may be approved by the commission, if it maintains orthopedic equipment and con-

valescent and educational facilities including qualified instructional service and an attending orthopedic surgeon and other specialists approved by the commission.

(448) **Reports.** Sec. 18. Hospital reports. Approved hospitals receiving patients under the provisions of this act shall report within 10 days to the commission, on blanks to be provided by the commission for that purpose, the dates of admission to and discharge from such hospital, the name of the approved physician and/or the surgeon who operated, and such other information as the commission may require, and a copy of such report shall be sent by the commission to the probate judge and to any other properly interested person or agency of the county from which such patient was sent. Each approved hospital shall report progress to the commission on the treatment of all crippled children remaining in such hospital in excess of 15 days in the manner required by the commission.

Am. 1943, Act 227.

(449) **Care and treatment.** Sec. 19. Hospital care and treatment. It shall be the duty of the superintendent of such hospital to provide a bed in the hospital to which such child shall be assigned for operation or treatment or both of the deformity or malady in the particular case and the care and treatment of such child. The physician or surgeon approved by the commission shall proceed as promptly as necessary to perform such operation or to bestow such treatment upon such child as in his judgment shall be proper. No compensation shall be charged or allowed to the admitting physician nor to the physician or surgeon at the hospital of the university of Michigan who shall treat such child other than is provided for in this act.

TITLE VII. EDUCATION.

(450) **Hospital schools.** Sec. 20. Hospital schools. Hospital schools for academic class room and bedside instruction, and pre-vocational training for convalescent crippled children shall be provided by the commission in approved hospitals of the state receiving crippled children for treatment as may in the judgment of the commission be deemed advisable.

(451) **Same; requirements.** Sec. 21. Requirements. All courses of study, attendance record systems, the adequacy of methods of instruction, the qualifications of teachers, the conditions under which teachers are employed and the purchase of necessary equipment for the instruction of such children in hospital schools shall comply with the requirements prescribed by the state superintendent of public instruction.

(452) **Same; records, reports.** Sec. 22. Records; reports. Hospital schools shall keep daily records on the regular child accounting forms used in the public schools in the state, showing all children actually receiving instruction. Said hospital schools shall transmit a summary report to the commission at the end of each month showing the total number of children enrolled and the average number receiving instruction per day together with the names of the children, the exact name, number and address of the local school district, and the name and address of the secretary or treasurer of the local school district for

each child: Provided, That the commission upon request shall furnish to the proper superintendent of schools or county commissioner of schools, as the case may be, information from said summary report regarding hospital school pupils whose legal residences are within the school territory under his or her supervision.

TITLE VIII. ORTHOPEDIC CENTERS.

(453) **Minor orthopedic cases; out-patient and convalescent department; follow-up supervision.** Sec. 23. Minor orthopedic cases, out-patient and convalescent department; follow-up supervision. The commission may from time to time establish treatment and educational centers in various districts of the state, where, in the opinion of the commission it is necessary to give clinical examination, treatment of minor orthopedic conditions, out-patient treatment and education and follow-up supervision, including convalescent periods for patients from approved and designated hospitals provided for in section seventeen of this act. For this purpose the commission may designate and approve local hospitals and surgeons and convalescent schools for the care and education of such convalescent patients, and those suffering from minor orthopedic maladies, and fix their compensation therefor.

(454) **Commitment; responsibility.** Sec. 24. Commitment; responsibility. The probate judge of any county may make orders for the conveying of any such children to any such center, and the commission shall be charged with the responsibility for and the care and treatment of such children to the same extent as provided in section sixteen of this act.

TITLE IX. CUSTODIAL CASES.

(455) **Definition.** Sec. 25. Definition. A custodial case shall be deemed to be that of a person, under twenty-one years of age, who, because of his or her physical handicap, can improve very little or not at all by orthopedic treatment; who needs dependent care, either total or partial; who, under normal conditions, cannot be profitably educated, vocationally trained or placed in remunerative employment; but who may, under proper conditions especially provided, be enabled to contribute to his or her own partial support or well-being.

(456) **Care and education.** Sec. 26. Care and education. The commission shall have power and it shall be its duty to arrange for the care and education of crippled children requiring custodial care, for whom no other provision is made: Provided, That such persons committed before attaining the age of twenty-one, shall continue thereafter to receive such care and education if considered by the commission necessary and proper. Custodial care shall be given by the commission on the order of the probate court in family homes or private or public institutions which are suitable and licensed by the state under act number one hundred thirty-six of the public acts of nineteen hundred nineteen and act number three hundred of the public acts of nineteen hundred thirteen, as amended, respectively.

TITLE X. FINANCE.

(457) **Expenses of commission.** Sec. 27. Expenses of commission. The expenses of the commission in carrying out the provisions of this act shall be paid pursuant to appropriations made from time to time out of the general fund: Provided, however, That if any funds are made available to the commission by gift or grant, they shall be expended in accordance with the provisions of such gift or grant.

(458) **Expense of clinic.** Sec. 28. Expense of clinics. The per diem compensation of orthopedic surgeons and medical specialists in diagnostic clinics shall be fixed by the commission in cooperation with the auditor general and paid in addition to necessary traveling expenses. The commission may also incur and pay any other incidental expense for service in connection with the holding of such clinics.

(459) **Cost of investigations and reports.** Sec. 29. Cost of investigations and reports. The costs of the investigational and medical reports required by section fifteen of this act shall be paid by the state according to such schedule of fees and expenses as shall be adopted by the commission.

(460) **Hospital accounting; standardization of fees and rates.** Sec. 30. Hospital accounting; standardization of fees and rates. The director or the superintendent of such approved hospital or convalescent home as may have been selected shall keep a correct account of the services, appliances and other approved necessities furnished to crippled children hereunder and the physician's and surgeon's fees in accordance with hospital and convalescent rates and physician fee schedules as fixed by the commission, which shall not exceed an average of \$5.00 per day for hospital rate. The hospitals' financial records shall be open to audit by any person designated by the commission. The commission shall pay for the day of admission but not for the day of discharge. Professional fees shall not exceed \$75.00 for a major operation and \$200.00 for any 1 physician for any 1 patient in any 12 month period. The said director or superintendent shall make and file with the commission an affidavit containing an itemized statement of services rendered at such hospital or convalescent home in the treatment, nursing, and care of said children in accordance with the rates fixed by the commission which shall, insofar as possible, standardize all such fees and rates. This affidavit and statement shall in all instances be furnished not later than 60 days after the release or discharge of a child from the hospital. The schedules of fees and rates herein provided for shall be established by the commission on the first day of October of each year, and at such other times as may be necessary; and such schedules shall thereupon be promptly published by the commission.

Am. 1943, Act 227.

(461) **Audit and payment of hospital expense.** Sec. 31. Audit and payment of hospital expense. Upon filing the affidavit with the auditor general, it shall be the duty of the said auditor general to audit the same according to the rates fixed by the commission and the auditor general and forthwith to draw an order on the treasurer of the state of Michigan for the amount of such expenditures and forward the same to the treasurer of such hospital. All expenses incurred in conveying

crippled children to and from any such hospital shall, when approved by the judge of probate ordering such services, and when fully itemized be audited by the auditor general and paid out of the general fund of the state: Provided, That the expense of sending such children home may be paid by the hospital, and when fully itemized as traveling expense, charged in the regular bill for maintenance with the approval of the commission. The compensation as fixed by the commission and the auditor general and approved by them shall be paid through the hospital to the approved physician or surgeon performing services hereunder, by a separate warrant drawn to his order, except at the hospital of the university of Michigan. The warrant of the auditor general shall be made payable to the particular hospital rendering services hereunder and delivered to it in payment of such services.

(462) **Payments by parents, husbands or guardians.** Sec. 32. Payments by parents, husbands or guardians. Such portion of the charges for the care and treatment of the children whose parents, husbands or guardians are of sufficient ability to pay any part of the same, or who have persons or kindred bound by law to maintain them, shall be paid to the state treasurer by such persons or such kindred in such amount, and at a rate to be determined by agreement with the probate judge and the commission. Payment of such costs by such husband, parents or guardians shall be made to the treasurer of the county from which the child was admitted in accordance with the agreement. Said treasurer shall forward to the commission on the 15th of each month all payments received, and the commission shall duly credit the account, forward the moneys received to the treasurer of the state, who shall credit these payments to the fund for the cost of the care of crippled children under this act. The commission shall furnish all necessary blank forms for such agreement and payment.

Am. 1943, Act 227.

(463) **Tuition of hospital schools.** Sec. 33. (a) Hospital schools; tuition. Any hospital school established by the commission shall be entitled to receive through the commission, as tuition from the treasurer of the school district in which any child has a legal residence at the time such instruction was given at the hospital school or in which he or she was enumerated in the preceding school census, an amount equal to twenty cents per day for each day the child was enrolled and actually received instruction, for each child enrolled and receiving such instruction in excess of nine days.

State per capita contribution. (b) State per capita contribution. Upon receipt of such approved monthly report and information the hospital school shall also be entitled to receive through the commission not to exceed an additional sum per day for each day a child was enrolled and actually received instruction, for each child enrolled and receiving instruction in excess of nine days, as fixed by the commission on the actual cost of such instruction.

(464) **Expense of orthopedic centers.** Sec. 34. Expense, orthopedic centers. The accounting of the costs incurred under commitments pursuant to section twenty-four and the payment thereof from the general fund through the office of the auditor general, including conveyance costs as provided by law contracted for by the commission, shall be made

in the same manner as in the case of commitments to hospitals under this act.

(465) **Costs in custodial cases.** Sec. 35. Costs in custodial cases. Payments for necessary transportation and for custodial care shall be made in the same manner, and subject to the same limitations, as for other crippled children committed under this act to hospitals by the probate court: Provided, That fifty per cent of the costs of care in each case shall be recharged by the state to the county of which the custodial crippled child is a legal resident, upon the presentation of bills for such care approved by the commission.

(466) **Payment by state not pauper aid.** Sec. 36. Payment by state not pauper aid. Such charges as are paid by the state shall not be deemed to have been paid as state or pauper aid, and no person shall be deemed a pauper in consequence of his inability to pay for the care, treatment and education of a child in said hospital or in an approved hospital school.

(467) **Appropriations.** Sec. 37. Appropriations. The cost of carrying out the provisions of this act shall be paid from money appropriated for that purpose by the legislature. Appropriations under this act made for the uses of the commission and to reimburse the general fund for expenditures hereunder shall be separate and apart from the appropriations under any other act. The appropriations for the crippled children commission shall be allotted in accordance with a schedule to be submitted by the commission and recommended for approval by the state budget director to the state administrative board on or before the beginning of each fiscal year. Said schedule shall be based upon the equitable allocation to counties of the appropriations provided herein for the treatment of crippled children, which allocations shall be based solely upon the resources and needs of the respective counties, any other provision to the contrary notwithstanding. Nothing in this section shall prevent a revision of such schedule during the fiscal year when necessary to meet emergency conditions. It is the purpose of this section to so limit the liability of the state that the state will not be required to spend funds beyond the amount of each such appropriation. This section shall be so construed as to effect this purpose and it shall be absolutely binding upon every official or body concerned in the administration of the aforesaid appropriations. In administering the budget the commission shall have the power to surcharge the county for excessive hospitalization of any case, and in its discretion shall return to the probate judge or judges of the county responsible therefor, bills for such excessive hospitalization, who shall order such sums paid from the general funds of the county: Provided, however, That no county shall be liable for excessive hospitalization in such events as epidemics or emergencies requiring use of the provisions of this act.

Am. 1943, Act 227.

(468) **Disposition of income.** Sec. 38. Disposition of income. All sums paid to the commission for the training of crippled children shall be paid promptly by the commission into the state treasury to be credited to the hospital bedside education fund to be disbursed for the benefit of pupils in approved hospital schools. All money, securities or like personal property received by said commission by gift, devise, or be-

quest, shall be paid promptly into the state treasury to be credited to the fund of the state of Michigan, designated by the donor or the commission. The income from all notes, stocks, bonds or other securities shall likewise be paid promptly into the state treasury to be also credited to the fund so designated and to be likewise disbursed. The treasurer of the commission shall give a bond to the state of Michigan in such amount as shall be by the governor from time to time prescribed.

(469) **Funds received from federal government.** Sec. 39. Funds received from federal government. The state treasurer shall (one) receive all funds granted to the state by the federal government under the provisions of section six of this act; (two) act as custodian of such funds; (three) keep them in a special fund to be known as "the fund for services for crippled children," or other designation; (four) and disburse the funds upon certification by the treasurer of the commission.

TITLE XI. MISCELLANEOUS.

(470) **Provisions of act not compulsory.** Sec. 40. Provisions of act not compulsory. No official or agent, or representative, in carrying out the provisions of this act, shall enter any home or take charge of any child over the objection of the parents, or either of them or the person standing in loco parentis or having other custody of such child, and nothing in this act shall be construed as limiting the power of a parent or guardian or person standing in loco parentis to determine what treatment or correction shall be provided for a child or the agency or agencies to be employed for such purpose.

(471) **Repeal.** Sec. 41. Act number two hundred thirty-six of the public acts of nineteen hundred twenty-seven, as amended, being sections twelve thousand eight hundred ninety-six to twelve thousand nine hundred nine, inclusive, of the compiled laws of nineteen hundred twenty-nine, and all other acts and parts of acts inconsistent with the provisions of this act are hereby repealed.

(472) **Severing clause.** Sec. 42. Should any provision or section of this act be held to be invalid for any reason, such holding shall not be construed as affecting the validity of any remaining portion of such section or the act, it being the legislative intent that this act shall stand, notwithstanding the invalidity of any such provision or section.

(473) **Short title.** Sec. 43. This act may be known and cited as the "Crippled Children's Act".

(474) **Penalty.** Sec. 44. Any person found guilty of wilfully making a false statement or of wilfully giving false information for the purpose of securing aid under this act, shall be punished by a fine of not more than five hundred dollars or imprisonment in the county jail for not more than ninety days, and any official of any hospital or any physician who shall bill the state for the care of a patient in accordance with the fee schedules established under this act, and also attempt to force any parent, relative or guardian of such patient to pay an additional sum for such care, and who shall be found guilty thereof, shall be punished in the same manner.

Afflicted Children

An Act to declare the policy of the state of Michigan with reference to afflicted children; to provide for the medical and surgical treatment of children who are afflicted with a curable malady or are pregnant, and whose parents or guardians are unable to provide proper treatment; to prescribe the function of the probate court and the Michigan crippled children commission in such cases; to provide for, and regulate the making of appropriations to carry out the purposes of this act; and to repeal all acts and parts of acts inconsistent with the provisions of this act.

[Act 283, P. A. 1939.]

The People of the State of Michigan enact:

(475) **Afflicted children act; declaration of policy; Michigan crippled children commission.** Section 1. Policy of state. It is hereby declared to be the public policy of the state to provide medical and surgical treatment for afflicted children as hereafter defined. The authority for the administration of this act is hereby vested in the Michigan crippled children commission, hereinafter known as the commission.

Am. 1943, Act 225.

(476) **Same; definition.** Sec. 2. Definition. For the purposes of this act, an afflicted child is hereby defined to be any child under 21 years of age, married or unmarried, whose parents or guardians have resided in this state for 1 year, who is afflicted with a physical defect or illness which can be remedied, including acute fracture, or who is pregnant.

(477) **Specific powers and duties of commission; director, secretary, etc.; appointment.** Sec. 3. Commission; specific powers and duties. The commission shall have power here conferred (1) to administer this act, as hereinafter provided and to this end may employ a director who shall be a regularly qualified and licensed physician of the state of Michigan, a secretary and any other personnel necessary for the carrying out of the provisions of this act; (2) to adopt, alter, amend and rescind rules and regulations to carry out its provisions; (3) to administer a program of services for the afflicted child as defined in section 2 of this act; (4) to make and enforce rules and regulations concerning employees serving the commission, the approval of hospitals and of treatment and the handling of cases; the approval of convalescent homes, boarding homes, caring for afflicted children as herein defined; (5) the fixing of fees and institutional rates and the approval of bills. The said commission may in its discretion accept from private agencies, groups, associations, or individuals, funds or subscriptions to provide through its appropriate agency or instrumentality in developing, extending, and improving services for afflicted children and the administration thereof.

Am. 1943, Act 225.

(478) **Books and accounts; report to governor.** Sec. 4. Books and accounts; report. The commission shall keep such books and accounts as it deems necessary to adequately record and control its transactions and furnish data necessary for policy determination. The commission shall make a biennial report to the governor and the state administrative board showing the amount of money received and expended and a detailed statement of its activities for said period, and a copy of such

report shall be furnished each member of the legislature at its first session following the filing of such report with the governor.

(479) **Application for treatment, investigation and report; duty of probate judge; order sending child to hospital.** Sec. 5. Application for treatment, investigation and report; duty of probate judge; order sending child to hospital. Whenever there shall be found in any county an afflicted child as herein defined, whose conditions can be remedied and whose parents or guardians are unable to provide proper care and treatment in whole or in part, application for treatment shall be made to the representative of the commission or probate judge of that county who shall cause to be made an investigation into the physical and mental condition of such child and the financial condition of the family and the written certificate of the physician or surgeon with reference to such child. It shall be the duty of the probate judge to approve or reject such application, and if approved, he may provide for such care and treatment in the child's home, if possible, at local expense. If such treatment cannot be provided, it shall be his duty to enter an order directing that such child be conveyed by one who is approved by the commission to a hospital in the state selected by the attending physician, and which has been approved and designated by the commission for the care of afflicted children as herein defined. Application for an order admitting an afflicted child to an approved hospital as a state charge must be made not later than 10 days from date of admission. Such order shall carry the date of application, and the effective date of the order which in no case can be earlier than 10 days prior to date of the application. Application may be made by the father, mother, guardian, next of kin, husband, or wife, any peace officer, custodian, health officer or publicly employed physician or surgeon, and superintendent of the poor or officer of the county or city welfare commission, or anyone else whom the probate judge in his discretion approves.

Am. 1943, Act 225.

(480) **Responsibility of commission; transfer of child to secure proper care and treatment.** Sec. 6. Responsibility of commission. Upon receipt of such order, it shall be the duty of the commission promptly to determine the eligibility of the case as a state charge. Upon the issuance of such order by the probate judge the commission shall become charged with the responsibility for the proper handling of the case. The commission may transfer such child to some other hospital for treatment better adapted to its needs, or if the condition of the child becomes such that it classifies as a crippled child, the commission shall transfer the child to a hospital approved for the care of crippled children under the crippled children's act, the intent of this act being that it shall be the duty of the commission to secure for each child such care and treatment as the particular necessities of the case, in the opinion of the commission, may require.

Am. Id.

(481) **Approval and designation of hospitals.** Sec. 7. Designation of hospitals. Any hospital which fulfills the requirements as set forth in the rules and regulations of the Michigan crippled children commission in force pursuant to the provisions of this act may be approved

for the care of the afflicted child as herein defined: Provided, however, That the state neuro-psychiatric institute shall not be approved for the purposes of this act: And provided further, That approval of a hospital under this act shall not include performance of operations for sterilization of mental defectives as provided by Act 281 of the public acts of 1929.

Am. Id.

(482) **Hospital reports, contents.** Sec. 8. Hospital reports. Approved hospitals receiving patients under the provisions of this act shall promptly report to the commission on blanks to be provided by the commission for that purpose, the date and hour of admission to and discharge from such hospital, the name of the physician and/or the surgeon who is in attendance, and such other information as the commission may require. Notification of the admittance of an afflicted child shall be made to the commission by the superintendent of the hospital within 10 days. A discharge report, giving the date of the discharge, and such other information as the commission may require, must be filed within 1 week from date of discharge. No bill for the care of a child shall be approved unless an entrance and discharge report has been filed with the commission. Each approved hospital shall report progress to the commission on the treatment of all afflicted children remaining in such hospital in excess of 10 days in the manner required by the commission. No bills for hospitalization in excess of 10 days shall be approved in the absence of prior negotiation and permission from the commission for additional care.

Am. Id.

(483) **Hospital care and treatment; transfer of patients.** Sec. 9. Hospital care and treatment. It shall be the duty of the superintendent of said hospital, upon receiving such child, to provide such child with proper hospital service, either in the in-patient or out-patient service of the hospital. The staff of the hospital shall be responsible for the prompt and proper medical or surgical treatment of the child except where such child is under the care of a private physician or surgeon. No child shall be sent to or received into said hospital unless there is a reasonable chance for him to be benefited by the proposed medical or surgical treatment, and as an aid to the diagnosis, prognosis and treatment of such case, a complete history of each case shall be furnished to the hospital and the commission by the examining physician upon request. Any child who shall be diagnosed after admission as a crippled child as defined by the crippled children's act, or as suffering at admission only from acute pulmonary tuberculosis, or only from any other communicable disease, or only from an incurable mental illness or defect shall be retained in the hospital under this act only for such period as may be necessary to discharge him to his home or to the jurisdiction of some other state act for the care of afflicted children. Appropriate rules and regulations may be adopted to effectuate the transfer of patients pursuant to this section.

(484) **Boarding homes; convalescent and out-patient service.** Sec. 10. Boarding homes; convalescent and out-patient service. An afflicted child who has been assigned to an approved hospital whose treatment

can be rendered through the out-patient department of that hospital, may be assigned by the commission to a boarding or convalescent home approved by the state department of public welfare, and supervised by that department, or any other agency approved by the commission, the cost of such convalescent or boarding care and treatment to be billed to the state as provided for in the rules and regulations and in accordance with the rates and fees set by the commission.

(485) **Expenses of commission and treatment; appropriations.** Sec. 11. Expenses of commission. Expenses of the commission in carrying out the provisions of this act shall be paid pursuant to appropriations made by the legislature from time to time out of the general fund of the state. Appropriations for the purposes of this act made to pay the cost of investigations and treatment and for the use of the commission shall be made to the commission and shall be separate and apart from appropriations to make effective the provisions of any other act.

(486) **Cost of investigation; claims.** Sec. 12. Cost of investigation and report. The cost of the economic and medical investigation by this act shall be paid by the state according to such schedule of fees and expenses as shall be adopted by the commission: Provided, That no person in the employ of the state or any county shall be allowed any compensation or traveling expense other than that provided by law. All claims for compensation shall be itemized for each child and rendered monthly under oath to the commission. When such claims are found to be correct and approved, they shall be paid out of the general fund of the state, appropriated for that purpose.

(487) **Hospital accounting; schedule of fees and rates.** Sec. 13. Hospital accounting. The superintendent of the approved hospital shall keep a correct account of all medical, surgical and nursing services: hospital, boarding or convalescent home services including all ordinary care and such other necessities furnished to said child in accordance with the hospital, convalescent or boarding homes, and physicians' and surgeons' fees as fixed by the commission. The hospitals' financial records shall be open to audit by any person designated by the commission. The commission shall pay for the day of admission but not for the day of discharge. The cost of all hospital services and materials shall not exceed an average of \$5.00 per day. Professional fees shall not exceed \$75.00 for major operation, and in no case shall surgical and/or medical fees exceed \$200.00 to any one doctor for any one patient in a 12 month period. Said superintendent shall make and file with the commission an affidavit containing an itemized statement of such services rendered. No compensation shall be charged or allowed to the admitting physician of any hospital; or to any physician, surgeon or nurse who shall attend or treat any such child at the hospital of the university of the state of Michigan, other than the salary or compensation paid to such person by that hospital. Any physician or surgeon treating any such child at any hospital other than the hospital of the university of Michigan may be allowed reasonable compensation as fixed by the commission, and paid by a separate warrant drawn to his order and delivered through the approved hospital. The commission shall fix schedules of compensation to be paid to any hospital, physician or surgeon for the clinical examination, treatment and out-patient care of an afflicted child. The schedules

of fees and rates herein provided for shall be established and published by the commission at such time as the commission may deem necessary.

Am. 1943, Act 225.

(488) **Audit and payment of hospital expenses; billing within 60 days.** Sec. 14. Audit and payment of hospital expenses. Upon filing the affidavit with the commission, and following the approval by the commission, it shall be the duty of the auditor general to audit the same according to the rates fixed by the commission and to draw an order on the treasurer of the state of Michigan for the amount of such costs and forward the same to the approved hospitals. The compensation as fixed and approved by the commission shall be paid through the hospital to the physician or surgeon performing the services hereunder by a separate warrant drawn to his order except at the hospital of the university of the state of Michigan. The warrant of the auditor general for hospital services shall be made payable to the particular hospital rendering services hereunder and delivered to it in payment of such services: Provided, That no crippled child as defined by the crippled children's act, or any other child exempted by this act, shall be entitled to care to be paid for by the state under this act. Payment shall be refused on any billing rendered 60 days or more after the discharge of the patient from the hospital.

(489) **Communicable diseases; expense recharged to county.** Sec. 15. Communicable diseases. All costs of care for communicable diseases of afflicted children while in approved hospitals under this act shall be paid by the state and recharged to the county from which the child was committed as provided in the laws dealing with the treatment of communicable diseases.

(490) **Transportation costs to be paid by county.** Sec. 16. Transportation costs. The cost of transportation of such child to and from such hospital shall be paid by the county in which such child resides or from which said child was admitted, and it shall be the duty of the county treasurer to pay such transportation expense out of the general fund of the county upon receipt of the proper certificate of approval thereof from the probate court of the commission.

(491) **Agreement to repay by husband, parent or guardian; paid to county treasurer.** Sec. 17. Payments by husband, parents or guardians. No child shall be committed to any hospital for medical or surgical treatment under this act until the husband, parents or guardians of such child have entered into an agreement with the state of Michigan that they will repay, if they have been determined by the commission and the probate judge to be financially able to do so, the state of Michigan, for the actual cost of such medical or surgical treatment on such terms as shall meet the approval of the commission and the probate judge. Payment of such costs by such husband, parents or guardians shall be made to the treasurer of the county from which the child was admitted, in accordance with the agreement. Said treasurer shall forward to the commission on the fifteenth of each month all payments received, and the commission shall duly credit the account, forward the moneys received to the treasurer of the state, who shall credit these payments to the fund for the cost of the care of afflicted children under this act. The probate judge may, where the child is found by him to be emancipated, accept the signa-

ture of such child in lieu and stead of the parent, guardian or husband, and in such cases as the probate judge finds the child to be neglected, abandoned, or deserted, or his parent or parents a subject of public relief or social security so certify to the commission in the order of admission.

Am. 1943, Act 225.

(492) **Payment by state not pauper aid.** Sec. 18. Payment by the state not pauper aid. Such charges as are paid by the state shall not be deemed to have been paid as state or pauper aid, and no person shall be deemed a pauper in consequence of his inability to pay for the care and treatment of a child in an approved hospital under this act.

(493) **Appropriation.** Sec. 19. Appropriation. The cost of carrying out the provisions of this act shall be paid from money appropriated to the commission for that purpose by the legislature. Appropriations under this act made for the use of the commission and to reimburse the general fund for expenditures hereunder shall be separate and apart from appropriations under any other act.

(494) **Same; allocation to counties; limitations of state liability; excessive hospitalization.** Sec. 19a. Limitation of state liability.

1. The appropriations made for any fiscal year for medical treatment of afflicted children or for any other service furnished under this act, shall be allotted in accordance with a schedule to be submitted by the commission and recommended for approval by the state budget director to the state administrative board on or before the beginning of each fiscal year. Said schedule shall be based upon the equitable allocation to counties of the appropriation provided for the treatment of afflicted children which allocation shall be based solely upon the resources and needs of the respective counties as determined by commission. Nothing in this section shall prevent a revision of such schedule during the fiscal year when necessary to meet emergency conditions. It is the purpose of this section to so limit the liability of the state that the state will not be required to spend funds beyond the amount of each appropriation. This section shall be so construed as to effect this purpose and it shall be absolutely binding upon each official or body concerned in the administration of the aforesaid appropriations.

2. In the administration of the afflicted children's act the crippled children commission shall have the power to charge back to the county and to return to the probate judge or judges of each county bills for excessive or unnecessary hospitalization due to neglect of county authorities as in the discretion of the commission shall seem just and shall have authority to surcharge any county which has in the opinion of the commission unnecessarily used an amount in excess of its fair allocation of funds.

Am. 1943, Act 225.

(495) **Funds received from federal government and other sources.** Sec. 20. Funds received from federal government and/or other sources. The state treasurer shall (1) receive all funds granted to the state by the federal government and/or other sources for expenditures under the provisions of this act; (2) act as custodian of such funds; (3) keep them in a separate account; (4) and disburse the funds upon certification by the treasurer of the commission.

(496) **Act not compulsory upon parents.** Sec. 21. Provisions of act not compulsory. No official or agent, or representative, in carrying out the provisions of this act, shall enter any home or take charge of any child over the objection of the parents, or either of them or the person standing in loco parentis or having other custody of such child, and nothing in this act shall be construed as limiting the power of a parent or guardian or person standing in loco parentis to determine what treatment or correction shall be provided for a child or the agency or agencies to be employed for such purpose except by judicial order.

(497) **Acts prohibited, penalty.** Sec. 22. Any parent or guardian, official of hospital, physician, employe of county or state or any other person found guilty of wilfully making a false statement or of wilfully giving, accepting, or concealing false information for the purpose of securing aid under this act shall be guilty of a misdemeanor and shall be punished by a fine of not more than \$500.00 or imprisonment in the county jail for not more than 90 days. Any official of any hospital or any physician who shall bill the state under the provisions of this act for the care of a patient and also attempt to force any parent, relative, or guardian of such patient or the patient to pay an additional sum for such care, and who shall be found guilty thereof, shall be punished in the same manner.

(498) **Act repealed.** Sec. 23. Act number 274 of the public acts of 1913, as amended, being sections 12889 to 12895, inclusive, of the compiled laws of 1929, is hereby repealed. All other acts and parts of acts inconsistent with the provisions of this act are hereby repealed.

(499) **Saving clause.** Sec. 24. Should any provision or section of this act be held to be invalid for any reason, such holding shall not be construed as affecting the validity of any remaining portion of such section or this act, it being the legislative intent that this act shall stand, notwithstanding the invalidity of any such provision or section.

(500) **Short title.** Sec. 25. This act may be known and cited as the "afflicted children's act".

Adults

An Act to provide hospital service and medical and surgical treatment for persons who can be benefited by hospital treatment who are unable to pay for such care and treatment, and for pregnant women unable to pay for such care and treatment and for the children of such pregnant women born during the period of hospital care, and providing for the expense thereof, and prescribing the jurisdiction of the county department of social welfare in said cases: and to prescribe penalties for the violation of the provisions of this act. (a)

[Act 267, P. A. 1915.]

The People of the State of Michigan enact:

(501) **§ 8295 Afflicted adult; report to county department of social welfare; "legal settlement" defined; treatment; reimbursement.** Section 1. Whenever it shall appear to any health officer, or to any supervisor of any township, or to any city physician of any city, or to any physician, that there is any indigent adult person having a legal settlement in his

(a) Title Am. 1939, Act 304.

county afflicted with any malady which can be remedied by proper care and medical or surgical treatment, also any such resident who by reason of any severe physical injury may have become a county charge and who is liable to remain a county charge unless special skill and facilities are employed in his treatment, also any such resident who is a county charge, because of acute disease or as the result of physical injuries, who requires capital operation or operations to preserve life, or any pregnant woman, and that said person or pregnant woman is unable financially to secure proper care and medical or surgical treatment, it shall be the duty of such health officer, supervisor, or physician, to report the same to the county department of social welfare of the county in which such person or pregnant woman resides. The term "legal settlement" is used herein as defined in Act 146 of the public acts of 1925, as amended. Upon the filing of said report with the said department as aforesaid, it shall be its duty to cause a thorough investigation to be made of the financial condition of the case and to have a thorough examination and report, and a complete history of the case shall be made by the physician examining such patients: Provided, That in counties having boards of county auditors the investigation as to the financial condition of persons seeking medical aid under this act shall be made by the department of social welfare and said department shall enter into an agreement for the use and benefit of the county liable, with the parties benefited under this act, for reimbursement of the expenses incurred by said counties in furnishing such medical care and treatment: And provided further however, That the agreement for reimbursement shall be turned over by the department of welfare to the board of auditors for collection.

The county department of social welfare shall make such arrangements as it deems proper relative to the prompt hospitalization of cases requiring immediate hospital care, pending the investigations and examinations herein provided.

Cases coming directly to the notice of the county department of social welfare may be investigated by the department, of its own volition, as herein provided and, if found eligible therefor, such cases may be given the treatment provided for in this act: Provided, That said department shall enter into an agreement with the parties benefited under this act, for reimbursement of the expenses incurred by said counties in furnishing such medical care and treatment.

Am. 1939, Act 304; 1943, Act 216.

(502) § 8296 Order for treatment; probability for benefit; expense.
Sec. 2. If upon such investigation it shall appear to said county department of social welfare that any person of either of the classes heretofore described is financially unable to secure proper care and medical or surgical treatment, and the physician making said examination shall also certify that in his opinion the deformity or malady or other injury, disability or disease is of such a nature that it can be remedied by proper care and medical or surgical treatment, or that said pregnant woman is entitled to care and treatment, and is financially unable to secure the same, said county department of social welfare may, if such person is a resident of said county, and if such county is liable for the expenses of such person incurred under the provisions of this act, direct that any

such person be conveyed to the university hospital at Ann Arbor for proper hospital care and medical or surgical treatment, or to such other hospital as the department may direct, the expense of said hospital care and treatment to be met in the manner hereinafter provided. The expenses of the medical or surgical treatment and hospital care of any child or children which may be born in the hospital of any woman sent to the hospital as hereinbefore provided as long as it shall seem necessary and proper in the judgment of the hospital physicians to keep such child or children in the hospital shall be included in the expense as hereinafter provided: Provided, That no such person or pregnant woman shall be received into said university hospital or to such other hospital as the department may direct for care and treatment unless in the judgment of the admitting physician there shall be a reasonable probability of such person being benefited by such hospital care and medical or surgical treatment.

Am. 1939, Act 304.

(503) **§ 8297 Hospital care.** Sec. 3. It shall be the duty of the admitting officer of the hospital, upon receiving any such person, to provide a proper bed in the hospital, and to assign or designate the clinic of the hospital to which such person shall be assigned for treatment, and the physician or surgeon in charge of said person or pregnant woman shall proceed with proper care to perform such operation and bestow such treatment upon such person or pregnant woman as in his judgment shall be proper and necessary. A proper and competent nurse shall also be assigned to look after and care for said persons during such hospital care and medical or surgical treatment, as aforesaid.

Am. Id.

(504) **§ 8298 University hospital officials and employes; compensation.** Sec. 4. No compensation shall be charged or received by the admitting officer of the medical faculty or by the physician, surgeons or nurses of said university hospital who shall treat and care for said persons other than the salaries received by them, provided by the board of regents of the university of Michigan.

Am. 1933, Act 222.

(505) **§ 8299 Hospital expense; statement, report; agreement covering charges.** Sec. 5. If said patient shall be admitted to the university hospital, the superintendent of the university hospital shall keep a correct account of all medicine, nursing, food and necessaries furnished to said persons and shall make and file with the auditor general an affidavit containing so far as possible an itemized statement of all expenses incurred at said hospital in the treatment, nursing and care of said persons in accordance with the usual rates therefor fixed by the regents of the university. He shall also make a monthly report to the county department of social welfare which issued the order, stating the condition of the patient and the expense incurred. Before said patient be admitted to any other hospital, a definite agreement, statement or schedule of charges, expenses and fees to be received by such hospital and physicians or surgeons performing necessary services shall be filed with the county department of social welfare and approved by said department. Such hospital shall, at the conclusion of such treatment, make a report of the

expenses thereof to the county department of social welfare which issued the order.

Am. 1933, Act 222; 1939, Act 304.

(506) **§ 8300 Same; payment.** Sec. 6. If said patient shall be admitted to the university hospital, upon the filing of said affidavit with the auditor general, it shall be his duty to draw an order on the treasurer of the state of Michigan, payable to the treasurer of the university of Michigan, for the amount of such expenditures in accordance with the terms of the warrant drawn by him for university purposes. If such patients be admitted to any other hospital, it shall be the duty of the county treasurer to pay such expenses out of the general fund of the county upon receipt of the proper certificate of approval thereof from the probate court.

Am. 1933, Act 222.

(507) **§ 8301 Transportation expense; payment by hospital.** Sec. 7. The expenses for sending such patient home or to other institutions after being discharged from said hospital may be paid by the hospital and charged in the regular bill for maintenance at the discretion of the superintendent of the hospital whenever he shall be satisfied that said patient is unable financially to bear such necessary expense.

Am. 1939, Act 304.

(508) **§ 8302 County liable to hospital; collection by state; uniform tax; borne by county-at-large where distinction maintained between county, etc., poor.** Sec. 8. The county from which any such patient is sent under any such order of the county department of social welfare to any hospital shall be liable to said hospital for all expenses incurred under the provisions of this act, and it shall be the duty of the state to collect from the treasurer of such county an amount of money sufficient to reimburse the state for all money expended from the general fund of the state in carrying out the provisions of this act: Provided, That no county shall be liable for expenses incurred after 6 months from the date of the order unless a new order is obtained: Provided further, That in a county, having a city operating a department of social welfare under the provisions of law, the necessary funds to carry out the duties imposed by this act, shall be raised by a uniform tax spread over the entire county. As between the several counties of the state the liability for such expenses shall be determined by the legal settlement of the patient in the same manner as the liability for the relief and support of poor persons under the provisions of Act 146 of the public acts of 1925, as amended: Provided, however, That where the distinction is maintained between county, township and city poor the cost of hospitalization contemplated hereunder shall be borne by the county-at-large.

Am. 1939, Act 304; 1943, Act 216.

Sec. 9 repeals contravening acts and parts of acts.

(509) **False statements; penalty.** Sec. 10. Any falsification of statements or information regarding indigency for the purpose of securing aid under this act shall be punished by a fine of not more than \$100.00 or imprisonment for not more than 90 days.

Added 1939, Act 304.

(510) **Authority of officers over child if parents object.** Sec. 11. Nothing in this act shall be construed as authorizing any health officer, or any supervisor of any township, or any city physician of any city, or any other physician, or any officer or representative of the department of social welfare, in carrying out the provisions of this act, to take charge of any child over the objection of either of the parents of such child, or of the person standing in loco parentis to such child, except in pursuit of a proper court order.

Added *Id.*

(511) **Operations and treatment; patient need not submit; consent of relative.** Sec. 12. Nothing in this act shall be construed as empowering any health officer, supervisor of a township, and city physician of any city, or any other physician or surgeon, or any officer or representative of the department of social welfare, in carrying out the provisions of this act, to compel any person, either child or adult, to undergo a surgical operation, or to accept any form of medical treatment contrary to the wishes of said person. If the child or person for whom surgical or medical treatment is recommended is not of sound mind, or is not in a condition to make decisions for himself, the written consent of the said person's nearest relative, or legally appointed guardian, or the parents of said child, or the person standing in loco parentis to said child, shall be secured before such medical or surgical treatment is given. This provision is not intended to prevent temporary first aid from being given in case of an accident or sudden acute illness where the consent of those concerned cannot be immediately obtained.

Added *Id.*

Sterilization of Mentally Subnormal

An Act to prevent the procreation of feeble-minded, insane and epileptic persons, moral degenerates, and sexual perverts; to authorize and provide for the sterilization of such persons and payment of the expenses thereof; and to repeal act number two hundred eighty-five, public acts of nineteen hundred twenty-three, and amendments thereto.

[Act 281, P. A. 1929.]

The People of the State of Michigan enact:

(512) **§ 6645 State policy.** Section 1. It is hereby declared to be the policy of the state to prevent the procreation and increase in number of feeble-minded, insane and epileptic persons, idiots, imbeciles, moral degenerates, and sexual perverts, likely to become a menace to society or wards of the state. The provisions of this act are to be liberally construed to accomplish this purpose.

(513) **§ 6646 Definitions.** Sec. 2. The words "mentally defective person" or "defective person" in this act shall include all feeble-minded, insane and epileptic persons, idiots, imbeciles, moral degenerates and sexual perverts. Where such persons are referred to in this act as of the masculine gender, the same shall be deemed to include persons of the feminine gender as well.

(514) **§ 6647 Probate court, jurisdiction.** Sec. 3. The several probate courts within the state of Michigan shall have power to receive petitions, hold hearings and make orders for the purpose of carrying out the provisions of this act and perform all necessary acts in connection therewith. For that purpose the general provisions of law applicable to the jurisdiction of probate courts and particularly the laws and procedure governing the holding of hearings and making orders of admission of mentally diseased persons to the several hospitals of the state, shall be construed as a part of this act insofar as the same are not inconsistent herewith.

(515) **§ 6648 Mentally defective persons, sterilization of; inmates of state institutions; duties of institutional officers; examination; record; proceedings in probate court; consent.** Sec. 4. Whenever the medical superintendent, warden, or principal officer of the Kalamazoo state hospital for the insane, the Pontiac state hospital for the insane, the Traverse City state hospital for the insane, the Newberry state hospital for the insane and feeble-minded, the Ypsilanti state hospital for the insane, the Ionia state hospital for the criminal insane, the Lapeer state home and training school for feeble-minded, the Coldwater state home and training school for feeble-minded, the Caro state hospital for epileptics, the neuro-psychiatric hospital at Ann Arbor, the state prison of southern Michigan at Jackson, the state house of correction and branch prison at Marquette, the Michigan reformatory at Ionia, or any other hospital, training school, farm colony, prison or public institution maintained and supported in whole or in part by the state of Michigan, shall be of the opinion that any inmate or person under the custodial care of such institution is a mentally defective person who would be likely to procreate children unless closely confined or rendered incapable of procreation; that such children would have a tendency to mental defectiveness and that there is no probability that the condition of said defective person will improve and that it is for the best interest of such person and of society that such mentally defective person should be sexually sterilized, it shall be the duty of such medical superintendent, warden, or principal officer to bring to the attention of the governing board or body of such institution the facts, records, family history, traits, and mental and physical condition of such person so far as the same can be ascertained. It shall be the duty of the governing board or body of such institution to cause an investigation, and examination to be made to determine whether such mentally defective person would be likely, if allowed to mingle in society, to procreate children having an inherited tendency to feeble-mindedness, insanity, idiocy, imbecility, epilepsy, or sexual degeneracy, and who would be likely to become a social menace or a ward of the state, and whether there is no probability that the condition of such person would improve to such an extent as to avoid such consequences. It shall be the duty of such governing board or body to keep a record with reference to each such person embodying its findings and conclusions in said respects, and either to obtain the consent hereinafter referred to or to file or cause to be filed a petition in the probate court of the county in which such mentally defective person was a resident at the time of commitment or admission, or in the probate court of the county in which such institution may be situated, for the purpose of

carrying out the provisions of this act, and to procure an order directing the sterilization of such defective person. Nothing in this act contained shall be considered to require a court order when consent is given as hereinafter referred to. Whenever the defective person is of the age of 16 years or more and not otherwise incapable of giving consent, such operation or treatment may be performed upon obtaining a consent thereto in writing, signed by such defective person, together with a similar consent in writing signed by his or her legal guardian, if any, and also by 1 or more of the following persons, in the order named; husband, wife, father, mother, brother, sister, child or next of kin. If such defective person is in the custodial care of a state institution said written consent shall be filed and kept as a part of the records of such institution; otherwise, the same shall be obtained and kept by the surgeon performing such operation. Upon complying with the foregoing provisions, it shall thereupon be lawful to perform such operation.

Am. 1941, Act 109.

(516) **§ 6649 Petitioners; hearing, notices.** Sec. 5. The father, mother, husband, wife, brother, sister, child, or guardian of a mentally defective person, the medical superintendent, director or principal officer of any state institution, the state welfare commission, any sheriff or superintendent of the poor, or supervisor of any township, may petition the probate court of any county in which a mentally defective person resides or in which may be located any state institution having the custodial care of a mentally defective person, for an order directing such treatment or operation of vasectomy, salpingectomy, or other operation or treatment as may be least dangerous to life, to effectively render said defective person incapable of procreation. Upon receiving such petition the court shall fix a day for hearing thereof, which shall be not less than fourteen days after the date of filing such petition. Notice of such hearing shall be personally served at least ten days before the date thereof as follows: (1) Upon such defective person, if above the age of ten years; (2) Upon the father, mother, husband, wife, brother, sister, child or next of kin who may be of full age, of such defective person, other than the petitioner, if there be any such known to be residing within the county; (3) If such defective person has no father, mother, husband, wife, brother, sister, child or other next of kin who may be of full age, known to be residing within the county, such service shall be made either personally or by registered mail on one or more of said relatives who may be residing outside of the county, and within this state, if there be any such known to the petitioner or to said court; (4) Upon the legal guardian of such defective person if a legal guardian has been appointed; if not, the court shall at the time of receiving such petition appoint a guardian ad litem upon whom such notice shall be served and who shall represent said defective person at the hearing; (5) If such defective person shall be residing with or in the custodial care of some person or institution other than the petitioner, such notice shall also be personally served upon the person, or principal officer of the institution, having the custodial care of such defective person, if within the county of jurisdiction; if without said county, said service shall be made either personally or by registered mail; (6) Upon the prosecuting attorney of the county in which such hearing is to be held; (7) Upon such other persons, if

any, as the court may, in its discretion, determine to be proper persons who should have notice of such hearing. Due proof of such service shall be filed with the court at or before such hearing.

(517) **§ 6650 Examination, certificate; testimony; court determination.** Sec. 6. The court shall appoint two reputable physicians who shall make an investigation and examination of the mental and physical condition, and personal and family history of such defective and report the same to the court with the opinion of said physicians as to whether said person is a defective person within the meaning and intent of this act who should be rendered incapable of procreation. The certificates of said physicians shall be filed with said court before an order shall be made for such operation or treatment. The court shall at such hearing take testimony in writing as to the mental and physical condition of such defective person and the history of his case and shall, if no jury is required, determine whether he is a mentally defective person subject to be rendered incapable of procreation in order to prevent the production of children who may be mentally defective or a menace to society or become wards of the state.

(518) **§ 6651 Jury trial; counsel, compensation of.** Sec. 7. If the court shall deem it necessary or if such defective person or any relative or the legal guardian or guardian ad litem of such person shall so demand, a jury shall be summoned in accordance with the rules and practice of summoning juries in probate court to determine the question of fact as to whether such person is a mentally defective person and should be rendered incapable of procreation under the provisions of this act. Such defective person shall have the right to be represented by counsel at such hearing and to be present in person unless it shall be made to appear to the court by certificate of 2 reputable physicians that his condition is such as to render his removal for that purpose or his appearing at such hearing improper and unsafe.

Whenever any such defective person shall be unable to procure counsel, and the probate judge shall appoint some attorney to represent such defective person at the hearing, the attorney so appointed shall be entitled to receive from the county treasurer on certificate of the probate judge that such services have been duly rendered, such an amount, not in excess of \$25.00, as the probate judge shall in his discretion deem reasonable compensation for the services performed. An attorney shall not, in such case, be compelled to follow a case on appeal, but if he does so, he may recover such additional compensation as shall be fixed by the circuit court to which an appeal is taken. Only 1 attorney in any 1 case shall receive the compensation above contemplated, nor shall he be entitled to this compensation until he files his affidavit in the office of the county clerk of the county in which such trial or proceedings may be had, that he has not, directly or indirectly, received any compensation for such services from any other source.

Am. 1941; Act 97.

(519) **§ 6652 Order for admittance to hospital; expense of operation, payment.** Sec. 8. Whenever at such hearing it shall be found by the court or by a jury that such person is a mentally defective person and the court shall find that said defective person would be likely to procreate children unless he be closely confined or rendered incapable of procreation, that such children would have a tendency to mental de-

fectiveness and that there is no probability that the condition of said defective person would improve, and the court shall find that such children might be a menace to society or might become wards of the state, the court shall make an order requiring and specifying that such defective person shall be treated or operated upon by X-rays or by the operation of vasectomy or salpingectomy or other treatment or operation best suited to the condition of such person, and most likely to produce the beneficial results intended by this act and which will effectively render such defective person incapable of procreation. The court may in said order direct that such defective person be admitted at the university hospital at Ann Arbor for such operation or treatment whenever the mental and physical condition of such person is such that he may be admitted and cared for in said hospital; or may direct that such operation or treatment be performed by a reputable surgeon whose duty it shall be to perform such operation or treatment in accordance with said order. The expense of such operation or treatment together with physician's fees and all other expenses incurred in connection with such proceeding shall be a proper charge against the state of Michigan: Provided, That such operations or treatment shall be performed or provided by the regular surgeon of the state institution whenever possible, without fees therefor, and when not so performed, the liability of the state for surgeon's fees shall in no 1 case exceed the sum of \$50.00; that when such person be admitted to the university hospital at Ann Arbor the hospital care shall be paid for at the rates established by the board of regents for such care. The auditor general of the state of Michigan is hereby required to reimburse the county or other claimant for all said expenses upon receipt of a certified copy of such order and a proper certificate of the court that such expenses are reasonable and proper, accompanied by an itemized statement thereof from the treasurer of said county, or other claimant. If on investigation it shall appear that such defective person has means or property sufficient for the payment of such expense or if those persons legally liable for the care and support of such defective person as an indigent person under the laws of this state has sufficient means for that purpose, the court shall require that payment or reimbursement for such expense shall be made by him or them. The provisions of law regarding the care and maintenance of insane persons, as well as indigent persons, are hereby expressly made applicable to the provisions of this section so far as the same are not inconsistent with this act.

Am. 1943, Act 235.

(520) **§ 6653 Appeal from order; time for operation.** Sec. 9. Said mentally defective person or any one in his behalf shall have the same right of appeal from such order as is provided by statute for appeals from orders of probate court; and any such appeal may be taken in accordance with such statutes and the rules and practice of said court. It shall be unlawful to perform any such treatment or operation during the period of five days next following the date of such order unless the court in said order shall find that such operation or treatment is immediately necessary and imperative in order to protect the physical health and well-being of such defective person; nor shall any action be taken to carry out such

order during the pendency of an appeal therefrom or until such appeal, if any, shall be determined or dismissed.

(521) **§ 6654 Surgeon's liability.** Sec. 10. No surgeon performing an operation or providing treatment under the provisions of this act shall be held liable either criminally or civilly on account thereof, except only in case of negligence in the performance of such operation.

(522) **§ 6655 Severing clause.** Sec. 11. This act is hereby declared severable in its provisions and the invalidity of any part, section or provision of the same shall not be construed to affect the validity of any other part which may be given practical operation and effect without the invalid part, section or provisions.

Sec. 12 repeals Act 285, P. A. 1923.

Other Afflicted Persons

(523) For care of blind and deaf children, see Michigan school code, §§ 7543 and 7547, C. L. 1929. For the care of feeble-minded persons, see § 6878, C. L. 1929.

CHAPTER VIII.—CEMETERIES

Regulating Establishment of Cemeteries*

An Act to regulate the establishment of cemeteries and to define the duties of local boards of health and of the state board of health in relation thereto.

[Act 55, P. A. 1915.]

The People of the State of Michigan enact:

(524) **§ 2656 Cemeteries, establishment; local board, duties; additions.** Section 1. No person or incorporated cemetery association shall establish a cemetery at any place in this state until a description of the premises and a plat showing the division thereof shall have been filed in duplicate with the local board of health having jurisdiction of the premises and approved as hereinafter provided. The local board of health shall determine as soon as may be thereafter whether or not it is necessary or desirable for a cemetery to be established in the proposed location and if it approves of such location and the plat of said premises, it shall endorse such approval on both plats. When the establishment of any such cemetery has been approved as aforesaid one of said plats shall be returned to the proprietor thereof and the other shall be retained and preserved by the local board of health: Provided, That this act shall not apply to the acquiring of contiguous additions to existing cemeteries.

Vacating of Cemeteries in Townships

An Act to provide for vacating cemeteries in townships.

[Act 49, P. A. 1895.]

The People of the State of Michigan enact:

(525) **§ 2657 Private township cemetery, proceedings to vacate.** Section 1. That whenever complaint is made in writing to the board of health of any organized township in this state, by ten or more residents of such township, setting forth the fact that any private cemetery, within the bounds of said township, should be removed, for the reason that such cemetery has become commons, or has become neglected or abandoned by its owner or owners, or has become a public nuisance, or shall impede the growth of any city or village in said township, or whenever such cemetery shall endanger the health of the people living in the immediate vicinity thereof, it shall become the duty of the said township board of health to forthwith institute proceedings to vacate said cemetery in the manner hereinafter provided. The circuit court in chancery, of the county in which such cemetery is located is hereby authorized to vacate the same, or any part thereof, on petition made to such court as herein provided.

(526) **§ 2658 Petition by local health board, contents; notice; failure to act; costs.** Sec. 2. Said petition shall be made by the said board of health by an agent or attorney appointed by them for that purpose, who shall file a petition signed and sworn to by him, in the office of the register of said court for the proper county, which petition shall set forth his authority as attorney or agent, the particular reasons for making and filing such petition, and a distinct description of the premises on which such cemetery is located, which petition shall be filed, as aforesaid, thirty days previous to the first day of the term for which such petition shall be noticed for hearing. That notice of the pendency and hearing of such petition shall be given for the same space of time, by publishing the same in a newspaper published in the proper county, once in each week for four successive weeks prior to the first day of the term when such case is noticed for hearing: Provided, That should said board of health neglect or refuse to appoint such attorney or agent within thirty days after the complaint in writing shall have been filed with said board, then any freeholder resident of said township may file said petition and proceed in the same manner as though regularly appointed as such agent or attorney: Provided further, Such freeholder may be required upon the order of said court to furnish security for costs should said petition be denied.

(527) **§ 2659 Hearing; burden of proof; order, recording.** Sec. 3. That the hearing on such petition may be continued from term to term, in the discretion of the court, without further notice; that all testimony may be taken in open court, or the taking of the same may be referred, in the discretion of the court, to a circuit court commissioner of the proper county: that, under the discretion of the court, proper issues may be made for the determination of all questions of law and fact, and all questions of compensation to any person or persons to be affected by

such proceedings, and all questions touching the compensation to be paid by the person or persons to whom said premises or any part thereof shall be sold after the same shall have been vacated as such cemetery, and all issues of fact may be tried by a jury, or three commissioners, if the court shall so order, and any person adversely interested may cause himself to be made defendant to such petition. In all cases where reference shall be made to a jury or commissioners to determine the compensation to be paid to or by any persons as aforesaid, the proceedings upon such reference shall, so far as practicable, be like those had in cases where a jury is impaneled or commissioners are selected, to ascertain and determine the necessity of taking lands, franchises, and other property for the construction of railroads, and to appraise the damages and compensation to be allowed therefor. If upon [the] hearing, such petitioner shall produce satisfactory evidence to the court that the notice required by this act has been given, and that such cemetery should be vacated in whole or in part, as a place of burial, for any of the reasons given in this act for vacating cemeteries, such court shall thereupon order that such cemetery shall be vacated, in whole or in part as a place of burial. That a copy of such order, certified by the register of such court under his seal, shall be recorded by the petitioners in the office of the register of deeds of the proper county.

(528) **§ 2660 Reinterment; expenses.** Sec. 4. That when any cemetery shall be vacated as provided in this act, the said township board of health shall cause all the dead bodies and remains buried in said cemetery to be re-interred in the cemetery of such township, if they have one, and if not, then in some suitable cemetery in an adjoining township, in a prudent, careful and respectful manner, and shall cause to be removed and again erected over the proper remains, all permanent fences around graves and lots, all tombstones and monuments, with as little injury as the case will admit: Provided, That should the cemetery vacated belong to any religious society or church and there be another suitable cemetery belonging to the same church or denominational society within said township or an adjoining township, then said removal may be made to such cemetery instead of to the township cemetery: And provided, further, That no removal of said bodies and remains shall be made during the months of June, July, August or September, excepting in the upper peninsula. Such removal and the cost of such proceedings under this act, shall be at the expense of, and paid by the township in which such cemetery is situated, except that in cases where the proceedings are instituted by an individual, without the consent of the township board of health, and the prayer of the petition shall be denied by the court, then and in that case, the person so instituting the proceedings shall be required to pay such costs as may be allowed by order of the said court.

(529) **§ 2661 Lot owner, reimbursement.** Sec. 5. In all cases where the land vacated shall revert to said township or to any person or persons, such township shall on demand, and upon the conveyance of said lot, where conveyance may be necessary, to said township board of health or private person, repay to any owner the price he may have paid for his lot.

(530) **§ 2662 Reversion to original owner, conditions.** Sec. 6. In all cases where the land embraced in the cemetery so vacated shall not exceed

one acre in area it shall revert to the original grantor or his heirs, or be so conveyed to him or them by the said township if necessary: Provided, Said grantor or his heirs shall first pay to said township the value of said land based upon the market price of like land in the immediate vicinity.

Vacating of Cemetery Plats and Grounds

An Act to provide for vacating cemetery plats and cemetery grounds in the limits of incorporated cities and villages.

[Act 164, S. L. 1871.]

The People of the State of Michigan enact:

(531) **§ 2663 Vacation of cemetery; jurisdiction of chancery court.** Section 1. The People of the State of Michigan enact, That whenever the trustees of any incorporated village, or the common council of any city, shall by resolution adopted by them, determine that the dead bodies buried in any public or private cemetery located in such city or village should be removed therefrom, for the reason that such cemetery shall have become commons, or has become neglected or abandoned by its owner or owners, or has become a public nuisance, or shall impede the growth of any such city or village, or shall endanger the health of the people living in the immediate vicinity thereof, the circuit court in chancery of the county in which such cemetery is located is hereby authorized to vacate the same, or any part thereof, on petition made to such court as hereinafter provided.

Am. 1941, Act 149.

Negaunee Com. Coun. v. Muck, 205/382.

(532) **§ 2664 Petition of trustees or council to vacate; notice.** Sec. 2. That such petition shall be made in behalf of said trustees or common council, by an attorney or agent appointed by them for that purpose, who shall file a petition, signed and sworn to by him, in the office of the register of said court for the proper county, which petition shall set forth his authority as attorney or agent, the particular reasons for making and filing such petition and a distinct description of the premises on which such cemetery is located, which petition shall be filed, as aforesaid, thirty days previous to the first day of the term for which such petition shall be noticed for hearing. That notice of the pendency and hearing of such petition shall be given for the same space of time, by publishing the same in a newspaper, published in the proper county, once in each week for four successive weeks prior to the first day of the term when such case is noticed for hearing.

(533) **§ 2665 Court proceedings; order to vacate; recording with register of deeds.** Sec. 3. That the hearing of such petition may be continued from term to term, in the discretion of the court, without further notice; that all testimony may be taken in open court, or the taking of the same may be referred, in the discretion of the court, to a circuit court commissioner of the proper county; that, under direction of the court, proper issues may be made for the determination of all questions of law and fact, and all questions of compensation to any person or per-

sons to be affected by such proceedings, and all issues of fact may be tried by a jury if the court shall so order, and any person adversely interested may cause himself to be made defendant to such petition. In all cases where reference shall be made to a jury to determine the compensation to be paid to any person or persons as aforesaid, the proceedings upon such reference shall, so far as practicable, be like those had in cases where a jury is empaneled to ascertain and determine the necessity of taking lands, franchises and other property for the construction of railroads, and to apprise the damages and compensation to be allowed therefor. If upon the hearing of such petition the petitioner shall produce satisfactory evidence to the court that said trustees or common council have determined as aforesaid, that the notice required by this act has been given, and that such cemetery should be vacated, in whole or in part, as a place of burial, for any of the reasons given in this act for vacating cemeteries, such court shall thereupon order that such cemetery shall be vacated, in whole or in part, as a place of burial. That a copy of such order, certified by the register of such court under his seal, shall be recorded by the petitioner in the office of the register of deeds of the proper county.

(534) **§ 2666 Reinterment; time of year; expenses, payment.** Sec. 4. That when any cemetery shall be vacated as provided in this act, the said trustees or common council shall cause all the dead bodies and remains buried in such cemetery to be re-interred in the cemetery of such city or village, if they have one, and if not, then in some suitable cemetery not more than six miles from the nearest corporate limits of said city or village, in a prudent, careful, and respectful manner, and shall cause to be removed and again erected over the proper remains, all permanent fences around graves and lots, all tombstones and monuments, with as little injury as the case will admit: Provided, That no removal of said bodies and remains shall be made during the months of June, July, August or September. Such removal, and the costs of the proceedings under this act, shall be at the expense of and paid by the city or village in which such cemetery is located.

(535) **§ 2667 Price of lots repaid.** Sec. 5. In all cases where the title to the land vacated shall revert to such city or village, such city or village shall on demand, and upon the conveyance of said lot (where conveyance may be necessary) to said city or village, repay to any owner the price he may have paid for his lot.

Upkeep of Cemeteries

An Act to authorize township boards of health to receive and hold any property, real or personal, left to said board in trust for the upkeep of any cemetery or lots therein, and permitting said board to expend such funds in accordance with the provisions of such trust.

[Act 95, P. A. 1909.]

The People of the State of Michigan enact:

(536) **§ 2678 Township board, realty trusteeship duties.** Section 1. The township board of health of any township shall have power in its discretion to take, receive and hold any property, real or personal, which

may be granted, transferred, bequeathed or devised to such board in trust, for the purpose of caring for or keeping in good repair any lot or lots, or any portion thereof, or the whole or a part of any township cemetery, and to expend the same as specified in such trust.

Trusts in perpetuity, see *In re More's Estate*, 179/249.

(537) **§ 2679 Trust fund; investment.** Sec. 2. All moneys and property which may be received by said board by way of gift, grant, devise or bequest, for cemetery purposes, shall be under the control of said board, and shall be held in trust by said board, subject to the terms and conditions on which the same were given, granted, devised or bequeathed, and the same shall constitute a trust fund. If left in money it shall, unless otherwise expressed by those making such gift, grant or bequest, be invested as a permanent fund in good, safe, interest bearing securities, the interest therefrom to be used as designated in said trust, under the supervision or direction of the said board; and no part of such income shall be used or appropriated for other than the purposes expressed in said trust, except the paying of the clerk of said board for his services in carrying out the provisions of said trust, which amount shall be determined by the board.

(538) **§ 2680 Same; not transferable.** Sec. 3. Neither the whole nor any part of the principal or income derived from said trust fund shall be either temporarily or permanently transferred to the general cemetery or other fund, or used for general cemetery purposes, or diverted in any way contrary to the provisions of the trust under which the same was received.

(539) **§ 2681 Treasurer and custodian; bond.** Sec. 4. The clerk of said board shall be the treasurer of said board and custodian of such trust fund, and said board shall take into consideration this duty of the clerk in fixing the amount of his official bond, which in all cases shall be adequate to cover the moneys or property under his control for the purposes of this act.

Enlargement of Burying Grounds in Townships

An Act to authorize the boards of health of the several townships of this state to acquire and enlarge burying grounds and approaches thereto in their respective townships and to provide the manner of acquiring private property for such purpose.

[Act 272, P. A. 1909.]

The People of the State of Michigan enact:

(540) **§ 3867 Cemeteries, provided by township health board; compensation, determination.** Section 1. The boards of health of the several townships of this state, whenever they may deem it desirable and necessary, may provide new burying grounds in their respective townships, or may enlarge the limits of any existing burying grounds therein, and may provide for suitable approaches thereto, or may enlarge the limits of any existing approach to any burying ground in said township; and, in case said board of health shall be unable to agree with the owner or owners of any land or any rights therein which said board of health

desire to include within the limits of such burying ground or approaches thereto, as to the compensation to be paid therefor, said board of health may authorize one or more of its members to apply to the circuit judge or any circuit court commissioner of said county, or to any justice of the peace of said township for a jury of the vicinage to ascertain and determine the just compensation to be paid for the real estate acquired by said board of health for said burying ground or approaches thereto, or any enlargement thereof, and the necessity for using the same; which application shall be in writing and shall describe the real estate required by such board as accurately as is required in a conveyance of real estate.

(541) **§ 3868 Compensation, jury determination; summoning of jurors; notice.** Sec. 2. It shall be the duty of such circuit judge, circuit court commissioner, or justice of the peace, upon such application being made to him, to issue a summons or venire, directed to the sheriff or any constable of the county, commanding him to summon eighteen freeholders residing within the vicinity of such site, who are in no wise of kin to the owner of such real estate, and not interested therein, to appear before such judge, commissioner, or justice at the time and place therein named, not less than twenty nor more than fifty days from the time of issuing such summons or venire, as a jury to ascertain and determine the just compensation to be made for the real estate required by such board of health for burying ground purposes, and the necessity for using the same, and to notify the owner or occupant of such real estate, if he can be found in the county, of the time when and the place where such jury is summoned to appear, and the object for which such jury is summoned; which notice shall be served at least ten days before the time specified in such summons or venire for the jury to appear as hereinbefore mentioned.

(542) **§ 3869 Previous notice by board; contents, service.** Sec. 3. Thirty days previous notice of the time when and the place where such jury will assemble shall be given by the board of health of such township, where the owner or owners of such real estate shall be unknown, non-residents of the county, minors, insane, non compos mentis, or inmates of any prison, by publishing the same in a newspaper published in the county where such real estate is situated; or if there be no newspaper published in such county, then in some newspaper published in the nearest county where a newspaper is published, once in each week for four successive weeks, which notice shall be signed by the board of health or by the township clerk of such township, and shall describe the real estate required for such burying ground, and state the time when and place where such jury will assemble, and the object for which they will assemble; or such notice may be served on such owner personally, or by leaving a copy thereof at his last place of residence.

(543) **§ 3870 Judge, duties; jury summons return, contents; empanelling.** Sec. 4. It shall be the duty of such judge, commissioner, or justice, and of the persons summoned as jurors, as hereinbefore provided, and of the sheriff or constable summoning them, to attend at the time and place specified in such summons or venire; and the officer who summoned the jury shall return such summons or venire to the officer who issued the same, with the names of the persons summoned by him as jurors, and shall certify the manner of notifying the owner or owners of such real

estate, if he was found; and if he could not be found in said county, he shall certify that fact. Either party may challenge any of the said jurors for the same causes as in civil action. If more than twelve of said jurors in attendance shall be found qualified to serve as jurors, the officer in attendance, and who issued the summons or venire for such jury, shall strike from the list of jurors a number sufficient to reduce the number of jurors in attendance to twelve; and in case less than twelve of the number so summoned as jurors shall attend, the sheriff or constable shall summon a sufficient number of freeholders to make up the number of twelve; and the officer issuing the summons or venire for such jury, may issue an attachment for any person summoned as a juror who shall fail to attend, and may enforce obedience of such summons, venire or attachment, as courts of record, or justices' courts are authorized to do in civil cases.

(544) **§ 3871** *Jury sworn; subpoena power; determination of necessity, compensation; certificates by judge and jury, contents.* Sec. 5. The twelve persons selected as the jury shall be duly sworn by the judge, commissioner, or justice in attendance, faithfully and impartially to inquire, ascertain, and determine the just compensation to be made for the real estate required by such board of health for such burying ground, and the necessity for using the same in the manner proposed by such board of health, and the persons thus sworn shall constitute the jury in such case. Subpoenas for witnesses may be issued, and their attendance compelled by such circuit judge, commissioner, or justice in the same manner as may be done by a circuit court or by a justice court in civil cases. The jury may visit and examine the premises, and from such examination and such other evidences as may be presented before them, shall ascertain and determine the necessity for using such real estate in the manner and for the purpose proposed by such board of health, and the just compensation to be made therefor; and if such jury shall find that it is necessary that such real estate shall be used in the manner or for the purpose proposed by such board of health, they shall sign a certificate in writing, stating that it is necessary that said real estate, describing it, should be used as a burying ground or as an addition to a burying ground already established in such townships, or as an approach thereto; also stating the sum to be paid by such township as the just compensation for the same. The said circuit judge, circuit court commissioner, or justice of the peace, shall sign and attach to and endorse upon the certificate thus subscribed by the said jurors, a certificate stating the time when and the place where the said jury assembled, that they were by him duly sworn as herein required, and that they subscribed said certificate. He shall also state in such certificate who appeared for the respective parties on such hearing and inquiry, and shall deliver such certificates to the township clerk, or to any member of the board of health of such township.

(545) **§ 3872** *Judgment; collection.* Sec. 6. Upon filing such certificates in the circuit court of the county where such real estate is situated, such court shall, if it finds all the proceedings regular, render judgment for the sum specified in the certificate signed by such jury, against such township, which judgment shall be collected and paid in the manner as other judgments against townships are collected and paid.

(546) **§ 3873 Incompetent or unknown owner; county treasurer, duties; funds subject to court order.** Sec. 7. In case the owner of such real estate shall be unknown, insane, non compos mentis, or an infant, or cannot be found within such county, it shall be lawful for the said township to deposit the amount of such judgment with the county treasurer of such county, for the use of the person or persons entitled thereto; it shall be the duty of such county treasurer to receive such money, and at the time of receiving it, to give a receipt or certificate to the person depositing the same with him, stating the time when such deposit was made, and for what purpose; and such county treasurer and his sureties shall be liable on his bond for any money which shall come into his hands under the provisions of this act, in case he shall refuse to pay or account for the same, as herein provided: Provided, That no such money shall be drawn from such county treasury except upon an order of the circuit court, circuit court commissioner, or judge of probate, as hereinafter provided.

(547) **§ 3874 Vesting of fee, conditions; writ of possession.** Sec. 8. Upon satisfactory evidence being presented to the circuit court of the county where such real estate lies, that such judgment, or the sum ascertained and determined by the jury as the just compensation to be paid by such district for such burying grounds, has been paid, or that the amount thereof has been deposited according to the provisions of the preceding sections, such court shall, by an order or decree, adjudge and determine that the title in fee of such real estate shall, from the time of making such payment or deposit, forever thereafter be vested in such township and its successors and assigns, and shall, in and by such order or decree, award to such township a writ of possession for the recovery of the possession of such real estate, a copy of which order or decree, certified by the clerk of said county, shall be recorded in the office of the register of deeds of such county, and the title of such real estate shall thenceforth, from the time of making such payment or deposit, be vested forever thereafter in such township and its successors and assigns in fee.

(548) **§ 3875 Possession by township; writ of possession.** Sec. 9. Such township may, at any time after making the payment or deposit hereinbefore required, enter upon and take possession of such real estate for the use of said township. And it shall be the duty of the county clerk of said county, on the request of said township, to issue out of and under the seal of the circuit court of said county a writ of possession as awarded in such order or decree; which writ shall be directed to the sheriff of said county, and shall be tested and made returnable, and shall be substantially, so far as may be, in the same form provided for writs of possession in actions of ejectment; and it shall be the duty of such sheriff thereupon to remove the respondent or respondents in such proceedings, and all persons holding under them, or either of them, from the real estate described in such decree and in such writ, and deliver the possession thereof, with the appurtenances, to such township.

(549) **§ 3876 Jury disagreement; adjournment, limit.** Sec. 10. In case the jury hereinbefore provided for shall not agree, another jury may be summoned in the same manner, and the same proceedings may be had, except that no further notice of the proceedings shall be necessary; but instead of such notice, the judge, commissioner, or justice may ad-

journ the proceedings to such times as he shall think reasonable, not exceeding thirty days, and shall make the process to summon a jury returnable at such time and place as the said proceedings shall be adjourned to. Such proceedings may be adjourned from time to time by the said judge, or commissioner, or justice, on the application of either party, and for good cause, to be shown by the party applying for such adjournment unless the other party shall consent to such adjournment; but such adjournments shall not in all exceed three months.

(550) **§ 3877 Parties to suit; proof of claims; settlement.** Sec. 11. In case the said burying grounds or addition or approach thereto, is encumbered by mortgage, levy, tax sale, or otherwise, as aforesaid, the mortgagee, or other parties claiming to be interested in said title, shall severally be made a party to the procedure as aforesaid, and shall be authorized upon filing of the certificate of the jury in the circuit court of said county, to appear before the circuit judge and make proof relative to their proportionate claims to the said burying grounds, or addition or approach thereto, or the compensation to be made therefor, as determined by said jury. And the said circuit judge shall, by decree, settle their several claims in accordance with the rights of the parties respectively, and may divide the sum awarded by said jury between the claimants as in his judgment will be equitable and right, rendering against said township a separate judgment for each of the amounts so awarded.

(551) **§ 3878 Payment order, issuance; receipt; evidence.** Sec. 12. The circuit judge, judge of probate, or circuit court commissioner of any county where any money has been deposited with the county treasurer of such county, as hereinbefore provided, shall, upon the written application of any person or persons entitled to such money, and upon receiving satisfactory evidence of the right of such applicant to the money thus deposited, make an order directing the county treasurer to pay the money thus deposited with him to said applicant; and it shall be the duty of such county treasurer, on the presentation of such order, with the receipt of the person named therein, endorsed on said order and duly acknowledged, in the same manner as conveyances of real estate are required to be acknowledged to pay the same; and such order, with the receipt of the applicant or person in whose favor the same shall be drawn, shall, in all courts and places, be presumptive evidence in favor of such county treasurer, to exonerate him from all liability to any person or persons for said money thus paid by him.

(552) **§ 3879 Subsequent proceedings.** Sec. 13. In case any circuit judge, circuit court commissioner, or justice of the peace, who shall issue a summons or venire for a jury, shall be unable to attend to any of the subsequent proceedings in such case, any other circuit court commissioner or justice of the peace may attend and finish said proceedings.

(553) **§ 3880 Fees; compensation.** Sec. 14. Circuit judges, circuit court commissioners, and justices of the peace, for any services rendered under the provisions of this act, shall be entitled to the same fees and compensation as for similar services in other special proceedings. Jurors, constables, and sheriffs shall be entitled to the same fees as for like services in civil cases in circuit court.

Care and Maintenance of Cemeteries

An Act to authorize cities, villages, townships and municipal subdivisions of the state to own or control cemetery or burial grounds; to provide for perpetual care and maintenance; and to declare the effect of this act.

[Act 215, P. A. 1937.]

The People of the State of Michigan enact:

(554) **Cemetery or burial grounds; authority of cities, villages, townships, etc., to own or control; transfer of certain trust funds.** Section 1. The legislative body of any city, village, township or any other municipal subdivision of the state, having the ownership or control over any cemetery or burial grounds is hereby authorized by resolution or ordinance adopted by the legislative body of said city, village, township or other municipality, to provide for the perpetual care and maintenance of any lot or lots in such cemetery or burial ground upon the payment by the owner of the said lot or any other person or persons of such sum or sums as said resolution or ordinance may provide, and in consideration for which said city, village, township or other municipal subdivision may bind itself to perpetually care for and maintain said lot. Any testamentary trustee appointed by any probate court in this state of any trust fund, the use and income from which is to be used to maintain any cemetery or burial lot, may, upon petition to the probate court which authorized his, her or its appointment, be authorized and directed by said court to transfer any fund or funds in his possession in the corpus of said trust to any city, village, township or other municipal subdivision which has complied with this section, under the provisions of such ordinance or resolution, and upon receipt for said funds duly filed with the probate court may be thereupon discharged from said trust.

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REVISION OF 1943

STATE OF MICHIGAN

LAWS RELATING TO

PUBLIC HEALTH

COMPILED UNDER THE SUPERVISION OF

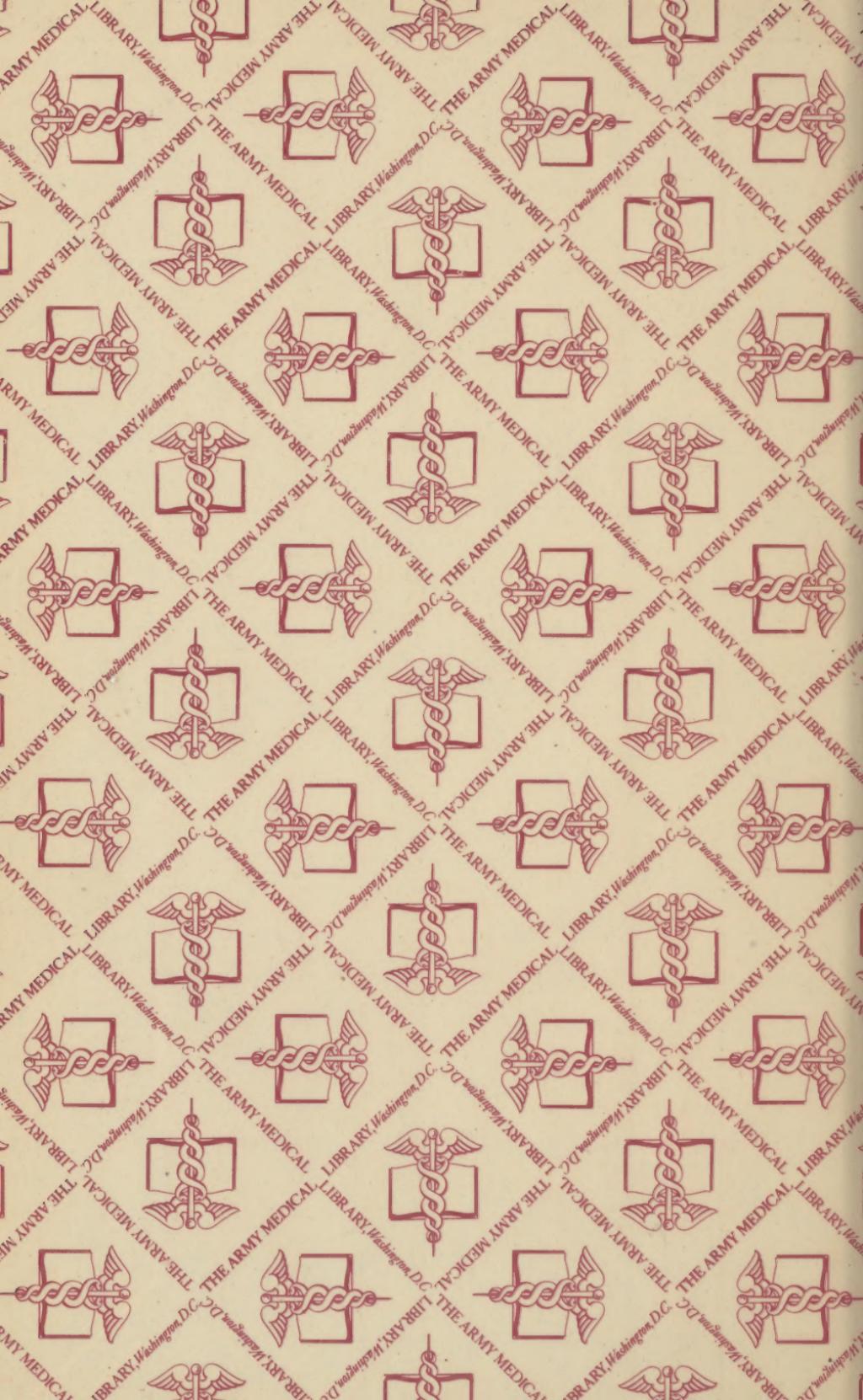
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